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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1445th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 9 March 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth and fourteenth periodic reports of Algeria

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.01-40970 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Thirteenth and fourteenth periodic reports of Algeria (CERD/C/362/Add.6)

1. At the invitation of the Chairman, Mr. Dembri, Mr. Akreche, Ms. Benabdallah, Mr. Sahraoui, Mr. Ouyedder and Mr. Bencherif (Algeria) took places at the Committee table.

2. Mr. DEMBRI (Algeria) said that Algerian society was characterized by its anthropological diversity, which in order to be fully understood must be seen in its historical and cultural context, in the light of formative political, economic and social events. Owing to its geographical location, at the crossroads of age-old cultures and civilizations, Algeria had not only benefited from the distinctive creative genius of those cultures, but had also become a breeding ground for noble and progressive values. That had resulted in the dual character of the Algerian people with, on the one hand, the solid foundations of its threefold Arab, Amazigh and Islamic identity, and, on the other, openness to diversity and hence opposition to all forms of exclusion, intolerance and discrimination, since it had always seen in otherness the potential for contact rather than confrontation.

3. During the period of colonial rule, all Algerians had been second-class citizens in political, legal, economic and social terms - victims of institutionalized discrimination. That helped to explain why the basic values underpinning Algerian society were the pursuit of dignity, equality and fundamental freedoms and the elimination of all doctrines of superiority and all forms of discrimination. Upon gaining independence, Algeria had continued along that path; hence the desire of the People's Democratic Republic of Algeria to ensure that in both its basic legal texts and in practice national solidarity would be the driving force behind social change, and that the key to national unity would be the development of basic rights and freedoms for all Algerian citizens without distinction.

4. The fact that the Universal Declaration of Human Rights, and also the Republic's basic objective of combating all forms of discrimination, particularly on grounds of race or religion, were enshrined in Algeria's first Constitution adopted in September 1963, even before the proclamation and adoption of the International Convention on the Elimination of All Forms of Racial Discrimination, showed that Algerian legislation had pre-empted international treaty law with respect to racial discrimination. The second Constitution adopted in 1976 had introduced new guarantees such as the equality of all citizens before the law and the inviolability of freedom of conscience and belief. The third Constitution of 1989 was broader in scope, paving the way for democracy, pluralism and the primacy of the rule of law, through open political debate and free elections. In that Constitution Algeria expressed its solidarity to all peoples who struggled for the right to self-determination and against racial discrimination (art. 27). Moreover, any foreigner legally residing on Algerian territory enjoyed the protection of the law with respect to his person and property (art. 64). Under no circumstances could a political refugee legally benefiting from the right to asylum be handed over or extradited to the authorities of another State (art. 66). As of 1969, in accordance with the Algerian Nationality Code, the granting of nationality to a foreigner did not take account of race, religion or social condition.

5. The revised Constitution of 1996 formally prohibited feudal and regionalist practices as well as forms of nepotism (art. 9), and guaranteed the right to establish political parties, which could not be founded on religious, linguistic, racial, gender, corporate-type or regional bases (art. 42). The successive constitutional revisions reflected the ongoing concern to reflect the Algerian people's desire for progress in national legislation. As it had built up a corpus of domestic legislation, Algeria had also ratified international treaties to complement it, including the Convention and other treaties relating specifically to discrimination, listed in paragraph 145 of the report.

6. It was against that background that the Algerian people had made their historic choices during the pluralist presidential elections of 1995 and 1999, striving both for an approach based on the primacy of the law, as embodied in the Universal Declaration of Human Rights, and for a political vision of civil harmony which united them even during the current difficulties in their efforts to consolidate the process of democracy under way since 1989.

7. Since the consideration of the eleventh and twelfth periodic reports (CERD/C/280/Add.3), the mechanisms for safeguarding and promoting human rights had been strengthened and Algerian legislation relating to economic, social and cultural spheres had been or was being brought up to date or into line with international obligations. The National Commission for Judicial Reform established by President Bouteflika at the very outset of his term of office had undertaken the enormous task of revising the Penal Code, Code of Criminal Procedure, Civil Code and Code of Civil Procedure as well as other basic laws. As at January 2001, four preliminary draft laws had been adopted for submission to Parliament covering such issues as the decriminalization of administrative error, criminal investigation, custody and preventive detention, strengthening of legal aid and procedures for administrative appeal. He hoped that the Committee would appreciate the progress made and the work that remained to be done in Algeria in the building of a modern nation that was sure of its identity yet tolerant and open to new ideas. He looked forward to a constructive dialogue with the Committee.

8. Mr. PILLAI (Country Rapporteur) welcomed the fact that the combined periodic report (CERD/C/362/Add.6) was far more comprehensive than the previous ones, with more detail given on relevant constitutional and legislative provisions. Positive aspects to be highlighted were the constitutional principle whereby ratified international treaties took precedence over domestic law, the strengthening of human rights mechanisms, the broad mandate of the National Human Rights Observatory (NHRO), the establishment of a human rights faculty at the University of Oran, human rights education for members of the judiciary, police force and prison staff, substantial progress in the health and education sectors and a largely independent press. Such factors, together with the introduction of a multiparty democracy and free market economy, had heightened awareness about individual and group rights and had been accompanied by a substantial increase in the number of non-governmental organizations (NGOs) dealing with socio-economic and human rights issues. As of 1997, political party statutes and programmes had been required to ensure protection of individual rights and fundamental freedoms. Last but not least, the violence which had plagued Algeria for so long was finally abating.

9. The report contained ample information on socio-economic indicators, but without any reference to specific sectors of the population. Despite the Committee's past recommendations, no disaggregated demographic data had been provided. According to paragraph 34 of the report, Algerian law forbade population censuses based on ethnic, religious or linguistic criteria, while at the same time paragraph 39 referred to the richness and diversity of the Algerian population. Many former colonies had faced the dilemma of forging a national identity while recognizing demographic/ethnic diversity - it was a question of striking the right balance. He asked whether the most vulnerable and underprivileged sectors of the population targeted as beneficiaries of the special social welfare system set up in 1992, referred to in paragraphs 119 and 120 of the report, could be identified with a specific geographical area or ethnic group.

10. Several human rights treaty bodies and NGOs had voiced concern about discriminatory action that was impeding the full enjoyment of human rights in the State party. In 1995, the Committee on Economic, Social and Cultural Rights had stated that the principle of non-discrimination and the universality of human rights had not fully taken root in Algerian society. When considering Algeria's initial report in 1999, the Committee on the Rights of the Child had noted an absence of specific and adequate regulations governing the registration of children who were members of nomadic groups. He appreciated the difficulties faced in the country's nation-building efforts and had been impressed by the statement, contained in a report by a panel of experts appointed by the Secretary-General of the United Nations to provide the international community with a clearer picture of the situation in Algeria, that many Algerians encountered took great pride in their linguistic and cultural diversity. However that was not reflected in the report. There was a marked absence of information on the Amazigh (Berber) community despite its long-established links with the territory now known as Algeria and an estimated population of 7.8 million, concentrated mainly though not exclusively in the Kabylia area. According to the preamble of the revised Constitution, the fundamental components of the Algerian national identity were Islam, Arabness and Amazighness. Yet there was no mention in the report of measures to protect and promote the Amazigh culture and identity. NGO sources claimed that the Tamazight language was taught in some 220 pilot schools and was thus accessible to around only 100,000 members of that group, on an optional basis. It was also alleged that legislation on the compulsory use of Arabic introduced in 1998 denied linguistic and cultural differences and specificity, and that constitutional provisions banning political propaganda by parties on a linguistic basis hindered the promotion of Amazighness.

11. One of the positive aspects highlighted by the Committee in its concluding observations on Algeria's eleventh and twelfth periodic reports had been the establishment of an Office of the High Commissioner on Amazigh Status. Some NGOs had expressed reservations about the effectiveness and activities of the Office, reporting that it had no legal or constitutional status, had been allocated inadequate resources and its leaders were not recognized authorities on the Amazigh language or culture. He asked for some clarification in that regard.

12. The Committee was not interested in the demographic divide per se, but rather its effect on the equal and universal enjoyment of human rights and the legislation and judicial and other institutional mechanisms in place to address such matters. Articles 27 and 42 of the Algerian Constitution prohibited discrimination based on race, language and religion. How were such

provisions enforced, what remedies were available to victims of such discrimination and what punishment would the perpetrators be liable to? The penal provisions referred to in paragraphs 48, 52 and 53 of the report did not appear to refer specifically to racial discrimination as defined in article 1 of the Convention.

13. Paragraph 50 of the report referred to the provisions of the Constitution, Commune code and Wilaya code establishing a ban on incitement to and encouragement of racial discrimination by public institutions or authorities. He would welcome more information on the existence of corresponding provisions in the Penal Code, the institutional mechanisms to enforce them and any cases dealt with. Referring to article 17 of the Labour Relations Act No. 90-11, described in paragraph 90 of the report, he asked whether the State party did not consider it necessary to provide also for protection against racial discrimination in such matters.

14. It was important to stress not only the punitive, but also the preventive value of the law in terms of the availability of adequate legal provisions and also the certainty of punishment and the broad dissemination of information on its existence. In that connection, he noted that paragraph 26 of the report cited the accessibility of private citizens to the Human Rights Committee and the Committee against Torture once domestic remedies were exhausted, but failed to refer to the Committee on the Elimination of Racial Discrimination. Algeria had been one of the first States to acknowledge the Committee's competence to receive and consider individual communications. Had the Algerian people been made aware that such a possibility existed and, if so, in which languages? He reiterated the Committee's earlier request for information on complaints and court cases relating to acts of racial discrimination and on the right of individuals to seek compensation for damages suffered as a result of such acts.

15. Turning to implementation of article 5, he said that it was heartening to note that the Algerian press was one of the freest in developing countries. He sought information on the linguistic and geographic coverage of the media, the kind of human rights issues they addressed and whether they included ethnic issues. The Committee would like to know more about the kind of complaints brought before the National Human Rights Observatory (NHRO), the social groups affected and the geographic extent of action taken. Should it assume that, to date, the Observatory had not received any complaints with an ethnic dimension? He had difficulty in relating the extensive information provided in the report to the letter and spirit of article 5. Facts and figures concerned the entire population and were not disaggregated. He drew the Algerian delegation's attention to the Committee's general guidelines regarding the form and contents of reports to be submitted by States parties (CERD/C/70/Rev.4), in particular on article 5.

16. The fourteenth periodic report was silent on the situation of the large number of refugees in Algeria. There were probably about 165,000 Western Saharan refugees, as well as 400 urban refugees from Mali and Niger and 200 Tuareg refugees who had remained after the completion of voluntary repatriation in 1998. Algerian citizenship was derived exclusively from the father; consequently, children of an Algerian mother and a refugee father were not eligible for Algerian citizenship. That would contribute to an increasing number of stateless persons.

The 1960 Convention on the Reduction of Statelessness stipulated that a State party should grant its nationality to persons born on its territory or descended from its nationals who would otherwise be stateless. Algeria should consider acceding to that Convention and reviewing its special procedures for individual refugees from Mali and Niger so as to ensure that they were not discriminatory.

17. Regarding article 7 of the Convention, very few details had been provided on education, culture and information with a view to combating racial discrimination. Some reference had been made to the work of the NHRO. It would, however, be useful to have further information on how the issue was treated in textbooks, academic institutions and training programmes for civil servants. The work of States parties in pursuance of article 7 was of great preventive value.

18. Mr. VALENCIA RODRIGUEZ, stressing first the importance of the NHRO, asked whether one of its tasks was to monitor compliance with the Convention. He noted that, according to paragraph 34 of the report, Algerian law forbade population censuses based on ethnic, religious or linguistic criteria, but pointed out that many countries with a similar prohibition had provided disaggregated data on the population on the basis of other socio-economic studies. Concerning the country's various ethnic groups, the Committee wished to have information on the nomads of the Saharan regions and on the Amazigh population. With regard to article 2 of the Convention, he stressed the importance of the principle of equality, as set out in article 29 of the Algerian Constitution. That principle should inspire all national legislation, and not merely the codes referred to in paragraph 43 of the report. In order to be able to assess the scope of article 13 of Ordinance No. 66-211 (para. 45), it would be useful to know how many aliens lived in the country and what their nationalities were.

19. Although, strictly speaking, the provisions of the Penal Code cited in paragraph 48 were not in conformity with article 4 (a) of the Convention, its requirements were to a large extent covered by article 298 of the Code, which referred to defamation on ethnic grounds. It would be useful to learn whether the article of the Penal Code mentioned in paragraph 48 had been applied in cases involving acts of racial discrimination. He sought further information on the articles set out in paragraph 49 so as to be able to assess their scope; had they ever been applied to prohibit or punish a racist organization? Turning to implementation of article 5, he asked for further details on how the guarantees under its provisions were applied to nomads.

20. Paragraph 77 provided an eloquent example of how freedom of expression and freedom of the press could coexist with the prohibition on the propagation of racist ideas or hatred. With regard to article 6 of the Convention, he had the impression, given the information provided, that the courts had never had to consider any cases involving racial discrimination. As to article 7 of the Convention, the Committee welcomed the information contained in paragraphs 28 to 31 and the efforts made to promote understanding and tolerance among the country's inhabitants. Could further information be provided on such initiatives in the cultural sphere? It was hoped that Algeria's periodic report and the Committee's concluding observations would be published so that the public could comment on them.

21. Mr. BOSSUYT said that he would confine himself to the question of the Amazigh (Berbers) in Algeria and the Law on the Generalization of the Arabic Language. He had noted the assertion (para. 34) that Algerian law forbade population censuses based on ethnic, religious or linguistic criteria; such statements sometimes suggested an intention to conceal certain facts. The same remark applied to paragraph 39, which stated that the criteria for identifying minorities within the present population of Algeria were far from convincing. According to information from a number of sources, the Berber population in Algeria totalled between 7 and 8 million persons, or 25 per cent of the country's population. How was it possible that no mention had been made of such a group in the report?

22. The Law on the Generalization of the Arabic Language in Algeria, which had entered into force on 5 July 1998, gave cause for concern. Whereas there could be good reasons for a country to have legislation on the use of a particular language in public life, that usually concerned languages that had long been dominated or the protection of an endangered language, which was hardly the case with Arabic in Algeria. He had the impression that that law was an expression of cultural and linguistic imperialism, which was contrary to the spirit of the Convention. The law contained draconian measures and was full of prohibitions and exclusions. It was forbidden to use a language other than Arabic in many situations; most shocking of all, the law contained penal, and not merely administrative, sanctions for violations. Surely that went too far. Moreover, the law went beyond the sphere of official use. For example, article 17 of the law spoke of the language used in films, article 19 of advertisements, article 20 of signs, billboards and symbols. Article 38 even stipulated that medical prescriptions were to be written in Arabic. The Human Rights Committee had recently concluded that Canadian legislation requiring that signs be written in one language only was in violation of the International Covenant on Civil and Political Rights. As he saw it, the purpose of the Algerian legislation was not to ensure the presence of Arabic, but to eliminate the presence of other languages. That could hardly be compatible with the spirit of the Convention, especially given the size of the minority population in question.

23. Mr. de GOUTTES, commending the regular submission of Algeria's periodic reports, recalled the Committee's previous acknowledgement of the problems faced by Algeria and reiterated its desire to be of assistance. While the Committee was pleased that Algeria had made the declaration under article 14 recognizing the Committee's competence to receive and consider individual communications, it had yet to receive a single such case. It was unfortunate that the report made no mention of the article 14 mechanism or even of the Convention itself.

24. Although the fourteenth periodic report contained much information on legal provisions in force, it did not give a clear picture of the actual problems encountered in the country. There was still insufficient information on the ethnic make-up of the population, which made it difficult to identify vulnerable groups, notably the Amazigh (Berbers), but also refugees and sub-Saharan blacks. The explanations given in paragraphs 34 and 35 were not consistent with the Committee's position on the need for data on the ethnic characteristics of the population as set out in paragraph 8 of the Committee's guidelines. The Committee requested information on socio-economic indicators that reflected the situation of existing ethnic groups, so that it could fully monitor implementation of the Convention in the State party.

25. Concerning the implementation of article 4, it appeared that the disagreement with the Committee noted in 1997 persisted. The provisions of Algeria's Penal Code, in particular article 298, only concerned defamation and insults directed at persons belonging to an ethnic or philosophical group (para. 48), but said nothing about racial groups. Moreover, neither the Constitution nor the Penal Code expressly prohibited racial discrimination as such. The Penal Code did not punish the acts covered by article 4. The Algerian Government should consider amending its legislation to bring it into line with the Convention.

26. Turning to article 5 of the Convention, the report contained no information on the actual implementation of the numerous legal provisions cited. It was not sufficient to refer to laws; it was essential to verify whether they were actually respected. Similarly, the paragraphs on implementation of article 6 did not contain any example of a case in which an act of racial discrimination had been prosecuted and punished by the courts. Nor was it enough to say, as in paragraph 42, that acts of racial discrimination were traditionally unknown in Algerian society.

27. Regarding the rights of the Amazigh (Berber) community, the Algerian Government's relations with that group were contradictory. On the one hand, concessions had been made, such as the authorization of Berber cultural associations, the creation of Berber departments in two universities, the introduction of Berber in television and the teaching of Berber in pilot schools. On the other hand, he noted the existence of the Law on the Generalization of the Arabic Language and the failure to provide constitutional recognition of the Amazigh culture or language. How did the Algerian delegation explain that apparent contradiction? Had the concessions been followed up? Was the Algerian Government planning any additional measures to protect the Berber culture and language?

28. Could the Algerian delegation indicate what measures were taken to familiarize the public with the Convention, the periodic country reports and the Committee's concluding observations; what role did NGOs play in drawing up the periodic reports and disseminating the views of the Committee?

29. Mr. THORNBERRY endorsed Mr. Bossuyt's comments regarding the Law on the Generalization of the Arabic Language, which seemed to conflict with international human rights jurisprudence, as reflected in the Human Rights Committee's findings in the case of Ballantyne/Davidson v. Canada and other similar cases. Caution should be exercised in imposing an official language in law and practice on those who were not fully conversant with it.

30. With regard to Amazigh identity, the modern tendency was to recognize personal identity as multiple and national identity as differentiated and complex. How was the "three-dimensional personality" of Algeria mentioned in paragraph 35 of the report reflected in law and practice and to what extent was the Amazigh language cherished and promoted by the State? In the light of the statement in paragraph 37 that the various ethnic contributions had blended intimately together to form the Algerian identity, he asked whether the Government's overall policy on ethnic and linguistic groups could properly be described as assimilationist or integrationist in cultural and social terms.

31. It would be interesting to learn whether the Government considered that the provisions of the Convention could be implemented without appropriate compilation of demographic data. Observing that the Tuareg had presented themselves to the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights as an indigenous people, he asked whether the Government recognized such status in the case of nomadic groups such as the Tuareg in Algeria.

32. Mr. TANG Chengyuan commended the Algerian authorities on their decision to incorporate many provisions of international human rights treaties in the Constitution. Referring to paragraphs 75 and 76 concerning criminal activities by extremist groups who opposed freedom of religious practice and freedom of conscience, he asked what provisions of the Penal Code were applicable to such acts. With reference to the 1961 Convention on the Reduction of Statelessness, he inquired about the nationality of children born to refugees in Algeria. If an Algerian woman married a foreigner, were her children recognized as Algerian citizens? He would welcome additional information concerning the status of minorities in Algeria and measures taken by the authorities on their behalf.

33. Mr. DEMBRI (Algeria) acknowledged that the report failed to provide sufficient statistical and demographic data, an omission that would be rectified as soon as possible. The process of building a balanced society in Algeria, a society in which the basic rights of all citizens were respected, had begun in 1962. As a united Arab-Berber society, Algeria had played a leading role in the global decolonization movement. In 1938 the colonial authorities had prohibited the use of the Arabic language and all regional dialects. The Law on the Generalization of the Arabic Language was therefore not a repressive law but one designed to promote the use of the official national language, which was spoken by the entire population. The title was somewhat misleading, since it was simply a law on the official language comparable to Canada's Official Languages Act. The Office of the High Commissioner on Amazigh Status had been established to rehabilitate all aspects of the country's cultural heritage and to protect the 14 local Berber dialects. The European Charter for Regional or Minority Languages had been adopted for precisely the same purpose.

34. He warned against the adoption of an anthropological or ethnographic approach to Algerian society. It should be viewed instead as a unitary society without ethnic minorities that set a high premium on modernization in all fields. In 1962, there had been just one embryonic university in Algeria; there were now 45.

35. He agreed that certain legal provisions that had been unduly influenced by religious considerations, for example those concerning children born out of wedlock, should be amended. Certain steps had already been taken in that direction, as other members of the delegation would report.

36. Ms. BENABDALLAH (Algeria) noted that the Committee, in its previous concluding observations (CERD/C/304/Add.33), had recommended that a prohibition of racial discrimination should be incorporated in Algerian domestic legislation. The President had

established the National Commission for Judicial Reform in 1999 to review the whole body of civil and criminal legislation in order to bring it into line with Algeria's obligations under the international treaties it had ratified. But even before its establishment, the Committee's concerns had been reflected in amendments to the Penal Code. Although the wording was not identical to that contained in article 1 of the Convention, the notion of ethnic or racial motivation had been included in articles 298 bis and 299 of the Penal Code. Under article 298 bis, any defamation directed against a person or group of persons on grounds of their origin, membership or non-membership of an ethnic group, race or religion was punishable by a term of imprisonment or a fine. Article 299 concerning insults had been amended along the same lines. The penalties in both cases had also been made more severe. She conceded that the notions of defamation and insult fell somewhat short of what was required by the Convention. However, the National Commission for Judicial Reform would no doubt recommend a more thoroughgoing reform of the Penal Code.

37. With regard to the role of the National Human Rights Observatory (NHRO) as an independent mediating institution, a decision had recently been taken to establish by presidential decree a national advisory commission for the promotion and protection of human rights. It would be composed for the most part, and on the basis of gender parity, of representatives of civil society and NGOs. Representatives of State institutions would also serve on the commission in an advisory capacity. It would review, for example, NHRO procedures for dealing with complaints. The Observatory currently operated in close consultation with the Ministries of Justice and the Interior in verifying allegations. If they were found to be substantiated, the Ministry of Justice transmitted the file to the relevant public prosecutor who opened an investigation.

38. As far as she was aware, no person had been punished for using a language other than Arabic since the Law on the Generalization of the Arabic Language had come into force. Algerians continued to draft documents and speak in both Arabic and French with impunity.

39. The law in Algeria, which had opted for ius sanguinis over ius soli, was unequivocal about nationality. Under article 6 of the Nationality Code, Algerian nationality was automatically granted to the child of an Algerian father, the child of an Algerian mother and unknown father, and the child of an Algerian mother and stateless father. By virtue of article 7, if a child born in Algeria of unknown parents was legally found to be descended from a foreigner and carried that nationality by law, he or she would be deemed never to have been Algerian. A child born in Algeria of an Algerian mother and a foreign father also born in Algeria would enjoy Algerian nationality unless the child renounced it up to one year before attaining his or her majority. Moreover, a newborn baby found on Algerian territory was presumed to be Algerian unless proven otherwise. Some problems persisted, but the authorities were considering making the necessary reforms. Adoption was prohibited by the shariah, but an important measure had been taken whereby under the foster placement system - the kafalah of Islamic law - a family member taking over the care of a child could bestow his or her name on the child.

40. Mr. SAHRAOUI (Algeria) confirmed that international instruments took precedence over domestic law. The fact that the Convention was not specifically mentioned was no oversight, since it was the subject of the very title of the pertinent chapter heading and, indeed, was implicit in the term "international instruments". The Convention relating to the Status of Stateless

Persons had been ratified by Algeria in 1964 and had been published in the Official Gazette. The International Convention for the Elimination of All Forms of Racial Discrimination had been one of the first international instruments to be ratified by Algeria. With the second wave of ratifications in the late 1980s and the start of the country's presentation of reports to the United Nations treaty bodies, he had been instrumental in ensuring that the texts of international treaties, including the Convention, were published as addenda to the Official Gazette, since only decrees had thus far been published therein. In the wake of a recent NHRO investigation, the International Bill of Human Rights had been published in Arabic and French in order to apprise Algerians of the issues involved.

41. Mr. AKRECHE (Algeria) said that registrars were obliged by law to record the births, deaths and marriages of all inhabitants, including nomads, regardless of ethnicity, kinship or race, and failure to do so was punishable by law. Given the enormous stretches of desert in the country and the distances involved, the deadline for registration had been extended in the southern part of the country, and local offices had been established.

42. On the subject of foreigners in general and refugees and displaced and stateless persons in particular, he said that aliens were governed by Ordinance No. 66-211, which was currently under review. However, the general principle was that foreigners' freedom of movement and their choice of domicile and activity were protected by law. For one reason or another, the previous decade had witnessed a huge influx of displaced persons from Algeria's two southern neighbours. The country had taken them in, established them in centres and provided them with educational and health services, food and security, thereby not only honouring its long-standing tradition of hospitality, but also fulfilling its international obligations under the 1951 Geneva Convention relating to the Status of Refugees. An agreement had also been concluded with the United Nations Development Programme (UNDP) for multilateral support to enable many displaced persons to return to their countries of origin.

43. A number of legislative changes had been made in order to combat racial discrimination in the social and economic fields. As part of the general overhaul of the system, a recent law stipulated that everyone must enjoy free access to hotel services, without discrimination based on gender, race or religion. Administrative sanctions, in the form of warnings and fines, were imposed on anyone violating that right. In short, Algeria was determined to fight discrimination and uphold the rule of law.

44. Mr. PILLAI (Country Rapporteur), thanking the delegation for the additional information it had furnished, welcomed the fact that Algeria, in its commitment to building a more modern society, was reviewing many of its legal provisions, articles 298 and 299 of the Penal Code being a case in point. He had been pleased to hear more about the law governing free access to public places. He wondered whether the State party was considering amending the legislation to eliminate the anomaly of a law providing for punitive action to prevent the use of a language other than Arabic when in fact no such action was ever taken. He looked forward to receiving information not provided in the report or in the delegation's answers as soon as possible, and thanked the delegation for its fruitful and constructive dialogue with the Committee.

45. Mr. DEMBRI (Algeria) said he would provide the missing statistics within a few days and assured the Committee that its comments would be heeded by the authorities. Algeria was striving to become a modern society and in those efforts benefited in large measure from dialogue with experts, such as the members of the Committee, who could steer it on the right course. Dialogue was paramount, even in a situation of cultural diversity. In the light of the concerns expressed regarding national and international publicity of its activities, the authorities would avail themselves of its national media. Aware as they were that the audio-visual media were sorely in need of development, they were drafting legislation to enable the country to have private television stations, and it was hoped that investors would come forward. Since independence, the Official Gazette had been published in both Arabic and French, which was precisely one reason why the Law on the Generalization of the Arabic Language was not enforced. The change from a one-party system to a pluralist society based on multiparty politics had called for the enhancement of the population's critical faculties to mould new citizens who were fully aware of developments in the world.

46. The CHAIRMAN, thanking the delegation, expressed hope for continued cooperation between Algeria and the Committee in their common aim of ensuring implementation of the Convention.

The meeting rose at 5.55 p.m.

**UNITED NATIONS**

**CERD**

**International Convention on the Elimination of all Forms of Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1446th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 12 March 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

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THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (continued)

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GE.01-40975 (E) 30.04.01 12.06.01

The meeting was called to order at 10.15 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 4) (continued)

Exchange of views on speaking time

1. The CHAIRMAN invited members to discuss the question of speaking time. In the past, the Committee had agreed to give delegations 30 minutes to introduce their reports and 60 minutes to reply to questions from members of the Committee. A State party introducing its initial report could speak for 45 minutes and would have 75 minutes to reply to questions from Committee members. The country rapporteur would have 30 minutes to present his questions and observations to the delegation introducing the periodic report and 5 to 10 minutes to conclude consideration of the situation in the State party. Each member of the Committee would have 10 minutes to put his questions to the delegation of the State party. But the Committee might decide, case by case, to follow another procedure if it saw fit.

2. Mr. ABOUL-NASR said that he was opposed to limitations on speaking time. Rapporteurs sometimes asked the delegations of States parties a large number of questions which could not be answered in 60 minutes. Very often, if the delegation concerned had not had the time to reply to all the questions asked, the Committee found in its conclusions that the State party had not replied to a given question, which was unfair. The Committee's conclusions should be shortened and should open the way to questions to which the Committee would like to revert later. Thus, the Committee should not set rules for taking the floor that were too strict, but should allow the Chairman to decide case by case.

3. Mr. RECHETOV said that, if the rules on speaking time were not respected, a delegation introducing a periodic report might decide, as had happened in the past, not to reply to a particular question or questions during its 60 minutes. The Committee then gained the impression that the dialogue had been constructive, although most of the questions put to the delegation had quite simply gone unanswered. He therefore proposed that the number of subjects or topics addressed by the country rapporteur should be no more than 15, which would allow the Committee to have a very accurate idea of the number of questions answered. The country rapporteur might also ask a colleague or colleagues to consider particular chapters of the report introduced by the State party.

4. Mr. BOSSUYT said that the present procedure was satisfactory and did not need to be changed in any way. The Committee should none the less ensure that the principles were applied flexibly so as to be able to depart from them as it saw fit, i.e. when reports gave rise to more questions than usual.

5. Mr. TANG said he had no objection to the new proposals. Nevertheless, he wondered whether the 10 minutes allowed for putting questions to a delegation had to be used at one time or whether members could take the floor several times.

6. Mr. DIACONU said it was regrettable that there was no real dialogue in the Committee and that its work up to now was marked mainly by monologues. Members should be able to interrupt delegations and repeat questions if they did not receive satisfactory answers.

7. As to the time allotted for considering the reports of States parties, at the present session the Committee should have given more time to Japan's initial report. The Committee would soon be examining the periodic reports of the United States and Indonesia, countries with real problems regarding racial discrimination, and an adequate number of meetings would be needed. Members of the Committee should also be able to take the floor several times if they so desired, provided they did not repeat what other members had already said.

8. Mr. ABOUL-NASR said he agreed with Mr. Diaconu. He, too, was in favour of genuine dialogue taking place in the Committee, both with delegations and among members themselves.

9. The CHAIRMAN said he took it that the members of the Committee approved the principle of allocating more time to considering the initial reports of States parties. He supported Mr. Rechetov's proposal that the country rapporteur should ask other members of the Committee to examine certain parts of the State party's report. He also endorsed the idea of setting aside more meetings to consider the situation of countries with genuine problems of racial discrimination. The discussion would certainly be reflected in the summary records of the Committee's meetings, which were very useful documents for recalling the positions of the various members.

Proposal on the reporting procedure

10. Mr. BOSSUYT read out in English a proposal which he had prepared (CERD/C/Misc.12/Rev.1, document distributed at the meeting, in English only) and which in substance consisted in offering the Committee the possibility of suggesting in its concluding observations on reports examined shortly before the next periodic report was due, that States parties could submit their next periodic report two years after the date due. The point was not to change the periodicity but to adapt to the current situation, which was marked by the backlog in the reports for consideration, owing to the difficulties some States experienced in submitting a periodic report every two years, as well as the work load with which the Committee must contend.

11. The CHAIRMAN said he endorsed the proposal and cited the example of Algeria. Its eleventh and twelfth periodic reports had been considered the previous week and in principle it should be submitting its next report in several days' time. That was completely unrealistic.

12. Mr. PILLAI said that the problem of considering a late report, which was thus no longer up to date, might be resolved if, during the consideration of such a report, the State party submitted an update. The Committee and the delegation might decide to regard it as an updated report.

13. Mr. ABOUL-NASR said that Mr. Bossuyt's text required a number of changes of form. He also asked what the practical consequences would be if the Committee approved Mr. Bossuyt's proposal.

14. Mr. BOSSUYT said that his proposal was intended only for States whose periodic report was expected very shortly after the consideration of their previous report. It was merely a suggestion for the country rapporteur who would have to draft the Committee's concluding observations.

15. Mr. SHAHI said that it would be preferable not to adopt new procedural rules which might be contrary to article 9 of the Convention, but to resolve the problem case by case, the Committee specifying in its conclusions the date for submission of the next report.

16. Mr. RECHETOV said he agreed with Mr. Shahi. The Committee might lay itself open to criticism if it officially adopted the proposed new rule.

17. The CHAIRMAN asked Mr. Bossuyt to draw up a new version of his proposal, which would be issued under the symbol CERD/C/Misc.12/Rev.2.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 11) (continued)

18. The CHAIRMAN invited members of the contact group who had attended the seminars of the Preparatory Committee's inter-sessional Working Group to report on those meetings.

19. Ms. JANUARY-BARDILL said that, at the meetings, delegations had criticized the fact that the concerns expressed during the regional seminars had not been taken into account in the Secretariat document (A/CONF.189/WG.1/3). The participants had set out to incorporate them, but it had not proved possible to complete such a laborious task and it had been postponed until the next session of the Working Group, which would begin on 7 May 2001. The participants had confined themselves to allowing the members of the Committee and members of non-governmental organizations the right to express their views, which they would not necessarily include in the document. The question of including a statement defining the Committee's role in following up the implementation of the Convention and in the universal ratification of that instrument had given rise to controversy.

20. Mr. VALENCIA RODRÍGUEZ said that, as the inter-sessional Working Group was made up of representatives of governments, the Committee had only observer status. If it wanted its proposals to be taken into account, it could simply submit them to delegations active in the regional groups and try to persuade them to present them in the inter-sessional Working Group.

21. Mr. RECHETOV said that it would be useful to find out whether the proposals of the regional groups not mentioned in the document concerned fundamental issues.

22. Mr. SHAHI said he understood it that the document containing the draft declaration and programme of action of the World Conference (A/CONF.189/WG.1/3) had been the subject of heavy criticism because the recommendations of the regional conferences had not been taken into account. That document contained important references to the work of the various regional conferences, including the latest one, which had been held in Tehran in February 2001. The document was perhaps not exhaustive, but the Secretariat had done everything in its power to

allow for the various recommendations despite the difficult context. Nevertheless, the specific recommendations made in the Committee's contribution to the World Conference's preparatory process (A/CONF.189/PC.1/12) did not seem to have been taken into consideration, and he wondered whether the document had been submitted on time for the inter-sessional Working Group to be able to examine it.

23. The CHAIRMAN noted that, once the document with the Committee's contribution had been completed, it had been sent to the High Commissioner for Human Rights, the Secretary-General of the World Conference, who had thanked the Committee, commended it for the quality of its recommendations and stressed that they would be very useful for the work of the World Conference.

24. Mr. SHAHI said that the contribution would, presumably, be taken into account at the forthcoming meeting of the inter-sessional Working Group, in May 2001. In his view, the problem was that it was an intergovernmental meeting, and States, which were intent on maintaining their prerogatives, did not really want the Committee to attend. It was not the first time that the views of treaty bodies or expert seminars were not taken fully into consideration. For example, a perusal of the draft declaration and programme of action of the World Conference showed that the importance given to early warning and prevention - measures on which the Committee set great store - was clearly insufficient. Admittedly, paragraph 18 of the draft was on prevention, but one might well ask whether the Committee could really play a role in preventing genocide, as the paragraph seemed to suggest. Genocide was usually committed at the instigation of the authorities or political leaders, and it would take much more than good offices missions to prevent it. On the other hand, as the Secretary-General had referred to the need to step up fact-finding missions as part of peacekeeping operations, the Committee might recommend that its members be more closely involved in such missions.

25. Mr. THORNBERRY said that, on the whole, the legal principles on which the prohibition of racial discrimination was based were not set out sufficiently in the draft declaration and programme of action. It was also regrettable, for example, that the preamble to the draft declaration did not contain any reference to developments in recent years, for international law had made considerable progress in a number of key areas, that the question of slavery had been addressed in too simplified a fashion and that questions relating to education, training and informing the public had not been treated in greater detail.

26. Mr. ABOUL-NASR said there was a clear desire to keep the Committee out of the preparations for the Conference. Those who had produced the draft declaration and programme of action of the World Conference had not taken any account of the Committee's observations, and it appeared that the points raised at the regional conferences had not been taken into consideration either.

27. Ms. JANUARY-BARDILL said that it would in fact be very difficult during the meetings of the inter-sessional Working Group for the Committee to have a direct impact on the content of the draft declaration and programme of action, but it should not give up the idea of exerting any influence behind the scenes. The members of the Committee should also examine the content of

the document distributed to them by the contact group at the beginning of the session and hold an exchange of views on the subject in order to define a strategy allowing it to influence the preparatory process of the World Conference.

28. Ms. McDOUGALL said that the inter-sessional Working Group, which she had attended as the coordinator of the Committee's contact group, had encountered enormous difficulties from the outset. The Secretariat had been instructed to draw up the World Conference's draft declaration and programme of action, which should have been based on the declarations of the regional groups and the conclusions of the expert seminars. All the regional groups had considered, from the very start of the deliberations of the inter-sessional Working Group, that the document had not met that criterion. A large part of the meetings had then been given over to discussions between the regional groups and the Bureau in order to find a solution that was acceptable to all. It had proved very difficult to arrive at a decision, and the Secretariat had been asked to establish a compilation of regional documents and to include in it the Secretariat's text as amended during the meetings of the inter-sessional Working Group. But that document had been considered very partially - only as far as the second operative paragraph of the draft declaration, and no one knew exactly what the status of the amendments adopted so far was. It would appear that the entire process had not constituted final negotiations but rather a simple exchange of different views. An intermediate meeting of the inter-sessional Working Group should be organized to consider the documents from the various regional groups.

29. Again, the references to the Convention and the work of the Committee in the Secretariat's document were completely inadequate. However, she had succeeded in having a paragraph inserted in the draft preamble to the declaration that would make specific reference to the Convention. For the Committee, the best way to proceed would probably be to consider the draft declaration and programme of action and propose to the Secretariat and the various regional groups the changes it would like to see in the text, paragraph by paragraph.

30. Mr. SHAHI, referring to Ms. McDougall's suggestion, wondered what the value would be of the amendments the Committee proposed to make, as opposed to the document prepared by Mr. Valencia Rodríguez, which was regarded as the Committee's contribution.

31. The CHAIRMAN said that the document issued under the symbol A/CONF.189/PC.1/12 continued to be the Committee's contribution to the preparatory process of the World Conference.

32. Ms. McDOUGALL said that, irrespective of that contribution, the Committee must continue to pay close attention to the process of elaborating the draft declaration and programme of action of the World Conference. At the meetings of the inter-sessional Working Group of the Preparatory Committee, she had always been able to take the floor whenever she had wished and had easily won the support of delegations when she had proposed the insertion of a particular reference in the text under consideration.

33. Mr. BOSSUYT said he too thought that, having prepared the document that served as its contribution to the preparatory process of the World Conference, the Committee must now make suggestions on references to the Convention and the Committee it would like to see inserted in certain paragraphs of the draft declaration and programme of action. He proposed that the

Committee should forward those suggestions to the Conference secretariat with a request for them to be included in the draft text and also to the regional groups' chairpersons, whose role in the Preparatory Committee was crucial.

34. Mr. ABOUL-NASR endorsed Mr. Bossuyt's proposal and recommended that the Committee should prepare very specific suggestions in writing.

35. Mr. SHAHI said that, to do so, it would be useful for the Committee to have the latest revised version of the draft declaration and programme of action.

36. The CHAIRMAN said he took it that the members of the Committee agreed to draw up specific suggestions for the inclusion of references to the Convention and the Committee in the draft declaration and programme of action that would be submitted to the second Preparatory Committee and then to the World Conference. Noting that the Secretary-General of the Conference, who was the United Nations High Commissioner for Human Rights, was to speak to the Committee on Wednesday, 14 March at 10 a.m., he proposed that the Committee's suggestions regarding the draft declaration and programme of action should be given to her on that occasion so that she could forward them to the appropriate officials in the World Conference secretariat. The Committee might also meet with the chairpersons of the regional groups before the end of the session so that they, too, could be given the Committee's suggestions on the draft declaration and programme of action. Time was of the essence, and the contact group could henceforth work on the basis of the draft declaration and programme of action in document A/CONF.189/WG.1/3. Although it had not received the approval of the regional groups and the Conference secretariat had been instructed to revise it, the document was still usable. However, the secretary of the Committee might obtain the latest revised version of the draft declaration and programme of action and circulate it to members as soon as possible.

37. Lastly, he asked Ms. McDougall to convene the contact group as soon as possible to prepare a paper containing the Committee's proposals relating to the draft declaration and programme of action. The paper would be submitted to the Committee for approval. He pointed out that the contact group was open-ended, and invited all interested members of the Committee to attend.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1447th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 12 March 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Ninth periodic report of Portugal (CERD/C/357/Add. 1; HRI/CORE/1/Add.20)

1. At the invitation of the Chairman, Mr. Leitão, Mr. Marrecas Ferreira, Ms. Fernandes, Ms. Dias Nobre and Ms. Cardoso Ferreira and Mr. Pereira Gomes (Portugal) took places at the Committee table.

2. Mr. LEITÃO (Portugal) said that, in recent years, more and more foreigners and immigrants from an increasing number of countries had become legal citizens. Portugal was in the process of implementing new legislation on the entry, residence, departure and removal of foreigners, which would make it possible for foreigners illegally working in Portugal to regularize their situation. In is new policies to help in integrating immigrants and combating all forms of racial discrimination, his Government had borne in mind the Committee's recommendations as well as the potential which the Convention held for building a non-racist society.

3. The Convention was directly applicable in domestic law. The Penal Code made provision for the crime of racial discrimination. The fight against all forms of racial discrimination had been stepped up, Act No. 134/99 of 28 August 1999 having made provision for administrative sanctions for a whole series of punishable acts. During the Portuguese presidency of the European Union, his Government had undertaken to approve directives and a programme of action under the new anti-discrimination clause - article 13 - of the Treaty of Amsterdam, and a new equal treatment directive had been adopted.

4. As High Commissioner for Immigration and Ethnic Minorities (HCIEM), he ensured that his office was actively involved in the fight against racial discrimination at national and European level. In April 2000, the Office of the High Commissioner had sponsored round-table discussions with the European Monitoring Centre for Racism and Xenophobia. Further round-table meetings on the same subject would be held in April 2001.

5. His Government continued to work to create conditions that would enable immigrants and Portuguese citizens to take an active part in decision-making on policies of concern to them and in their implementation. He referred in that context to the Consultative Council for Immigration Questions, in which associations of immigrants were represented and which had competence for advising on all bills concerning the rights of immigrants and participated in defining integration policies to eliminate discrimination and promote equality.

6. Act No. 115/99 had institutionalized associations of immigrants and their descendants, who now had the right to be involved in determining immigration policy and legislation concerning immigrants, were given air time on public radio and television, were exempt from a number of judicial taxes and fees and received technical and financial assistance from the State.

7. The working group for the equality and integration of the Gypsies continued its efforts to promote information, education, occupational training, employment and housing initiatives for Gypsies. The make-up of the working group had been recast following Council of Ministers decision No. 18/2000. It would be sending representatives to the National Association of Municipalities and the National Association of Communes, as well as associations working with Gypsy communities.

8. Mr. MARRECAS FERREIRA (Portugal) said that the overview presented in the report regarding Portugal's multicultural and mixed population - which in no way detracted from the sense of belonging to the same national community - and the situation of the Gypsy population - remained unchanged. By contrast, there had been a number of developments in the situation of the Guineans and Kosovars. Initially, Council of Ministers decision No. 44/99 had regulated the temporary protection of persons from Kosovo. The Kosovars had later returned to their country of origin. Regarding the situation of Guinean citizens, he said that of the 5,211 residence permits applied for (para. 7), 2,163 had been granted as of 15 July 1999. The scope of decision No. 94/98 had since been enlarged, and Guinean citizens who had not come from Guinea-Bissau and had already been in Portugal or other European Union member States had been allowed to stay, because they had not been able to return to their country on account of the war there. Council of Ministers decision No. 103/2000 had extended until October 2000 the residence permit of Guinean citizens enjoying temporary protection; the technical and financial support programme under Council of Ministers decision No. 90/99 had also been extended. That decision had provided for the establishment of a working group on Guinean citizens, who, once their temporary protection status had ended, could receive support under the general system for foreign citizens and obtain a residence permit.

9. Some figures needed to be updated. Only 429 persons had returned to Guinea-Bissau, of whom 167 had been evacuated from that country upon the outbreak of the conflict. Regarding the statistics on foreigners (paras. 9-20), he drew attention to the updated figures for 1999 appended to his statement, which had been circulated at the meeting. A recent law on immigration provided for a new procedure to deal with the problem of regularizing immigrants, which came under the responsibility of the Aliens and Frontiers Department, with a special working group set up to that effect (GREI). In an initial stage, 31,117 applications had been received; 29,809 had been judged admissible. During a second stage, 3,020 applications had been judged admissible out of 3,965 originally rejected.

10. He was pleased to announced that his Government had made the declaration under article 14 of the Convention and had accepted the amendments to article 8 (Assembly decision No. 4/2001 and Presidential Decree No. 5/2001).

11. He then referred to Act No. 20/98 on the regulation of the work of foreigners in Portugal, the aim of which was to ensure equal working conditions for foreigners and nationals. It was important to note in that context that Portuguese legislation had abolished limitations on the number of foreigners hired; all employees of a business could henceforth be foreigners and there was no discrimination as to nationality.

12. Regarding legislation on the entry, stay and departure of foreigners, Decree-Law No. 4/2001 amending Decree-Law No. 244/98 contained more flexible procedures for granting

and extending residence permits, established mechanisms for a more effective fight against illegal immigration networks and promoted the integration of immigrants. As to measures to prevent and combat trafficking in immigrants and the exploitation of illegal workers, a new type of offence had been introduced to punish anyone who offered employment to a foreigner illegally in the country (art. 136-A). In connection with the integration of foreign citizens, he referred to the annual report that assessed the labour market, to article 36.2 of the Decree-Law and to the amendments introduced to the principle of family reunification, which henceforth included family members living not only outside Portugal, but also those already in the country (art. 56.2). Under Portuguese legislation, the members of the family of the resident foreigner, including the spouse and dependant children below the age of 21, minors adopted by the couple, their parents if they were dependants and dependant siblings were eligible for a residence permit.

13. Regarding Act No. 134/99 prohibiting discrimination in the exercise of rights on grounds of race, colour, nationality or ethnic origin (paras. 40-44), that legislation had been regulated by Decree-Law No. 111/2000, which gave the Commission for Equality and against Racial Discrimination administrative power to rule in complaints of racial discrimination and impose a fine and punishment.

14. In its observations on the third report of Portugal on implementation of the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights had expressed concern about cases of intolerance and discrimination involving Gypsies, refugees and immigrants and the fact that foreign workers could not stand for election in workers' councils or attend vocational training courses to which Portuguese were entitled. He referred in that context to the cooperation agreement between the Labour and Vocational Training Institute and the High Commissioner for Immigration and Ethnic Minorities, the purpose of which was to decide on principles for legal cooperation and joint initiatives in the area of vocational training, employment and social integration for immigrant citizens and ethnic minorities. Provision had been made for combating the social exclusion of all those groups and setting up machinery for sharing and disseminating information on vocational training, employment and social integration. That illustrated Portugal's commitment to ensuring equality among all groups of society.

15. Mr. YUTZIS (Country Rapporteur) said that it would have been useful to have had the update just provided by Mr. Marrecas Ferreira in advance and in writing so that he could have responded in detail to the major changes reported. The Committee was pleased that Portugal had made the declaration under article 14, had accepted the amendments to article 8 of the Convention and permitted immigrants to be involved in some of the decisions of the Consultative Council for Immigration Questions. It also commended the Portuguese Government for the initiative to put an end to the practice of imposing quotas for the hiring of foreigners.

16. Given the State party's insistence, in paragraph 4 of the report, on the homogeneity of the Portuguese population, it was unclear whether Portugal viewed itself as a multicultural and multiracial country. While it might be true that no distinction was made between races, it was important to know whether different ethnic groups existed in Portugal. The term mestizo (of mixed race) had often been used in Latin American countries in support of dubious claims to homogeneity by those who wished to deny the existence of ethnic groups. Portugal had once

been a major colonial Power and its population, as mentioned in paragraph 47 of the report, had been regularly mixed and crossbred by successive arrivals of new ethnic groups. But that did not justify the failure to recognize any separate ethnic group in modern times apart from the Roma (Gypsies).

17. Referring to paragraph 46 of the report, he noted that the Portuguese Government tended to view acts of racism and xenophobia as exceptional and isolated incidents rather than symptomatic phenomena. But a study carried out by a social psychologist, J. Vala, in December 1997 had concluded that Portugal was no less racist than other European countries and that "subtle racism" was expressed by a tendency to underline cultural differences and to deny the capacity for adaptation of certain ethnic minorities.

18. Stressing the need for accurate data to assess compliance with the Convention, he noted that, according to the report, the figure of 40,000 Portuguese citizens who could be classified as Gypsies was "not very precise". A document concerning employment and the protection of migrant workers published by the High Commissioner for Immigration and Ethnic Minorities Affairs stated that Portugal had become an immigration target country and that some 200,000 foreigners were legally resident in Portugal in 2000. How precise was that figure?

19. While the process of regularization of the status of illegal immigrants was highly commendable, he regretted the lack of data in the report on the distribution of foreigners by occupation. Referring to paragraphs 32 to 37 of the report, he asked for further details about the requirement for a special written contract in the case of some foreign workers, while others were exempted. What was the basis for that distinction?

20. Some foreigners were reportedly excluded from professional associations, from enrolling in higher or vocational education courses and from obtaining loans on the same terms as their Portuguese counterparts. In the era of economic globalization, companies sought to maintain their competitiveness by lowering wages, a step that was often easier to take in the case of immigrant workers, especially those whose papers were not in order. It was reported that the very low wages in the hotel business in Portugal attracted only cheap immigrant labour. Similar conditions prevailed in the building and metalworking industries. A positive factor was that the trade unions had sided with the immigrant workers and that the Government was seeking to address the problem. But he wondered how effective their efforts would be if even legally recruited immigrants were being denied opportunities for advancement through further training.

21. According to a case study undertaken by the Portuguese Refugee Council (PRC), entitled Social and Economic Integration of Refugees into the Host Society, refugees experienced an "incomplete legalization process" since they continued to rely on an informal labour market, performing precarious jobs that did not offer security or dignity. Their economic status thus remained permanently insecure. They lacked basic social protection and were denied access to rights and social privileges that determined the sense of belonging to a particular society. That conclusion contradicted Portugal's official stance regarding the existence of discrimination.

22. No information was given in the report on compliance with article 5 of the Convention. The Committee would appreciate data on access by all sectors of the population to health, education and housing.

23. With regard to the Roma (Gypsies), he commended the legal measures described in paragraphs 23 to 27 of the report but noted that some proceedings were still before the courts. The Committee looked forward to hearing about the final outcome of those cases. According to paragraph 25, legal action had been taken against what was described as a "terrorist association". The perpetrators had thus been prosecuted for an offence under ordinary criminal law and not for the offence of racial discrimination within the meaning of article 4 of the Convention. No action seemed to have been taken against the so-called terrorist associations as such. He was curious to know whether they still existed. He cited a recent report by the International Labour Organization (ILO) to the effect that the working group for the equality and integration of Gypsies established by the Portuguese Government in 1996 had submitted a report in January 1997 which recognized a tendency in Portuguese society towards exclusion of and indifference to Gypsies.

24. Lastly, he asked whether the Convention and the Committee's concluding observations on Portugal's fifth to eighth periodic reports (CERD/C/304/Add.67) had been disseminated widely and in how many cases the provisions of the Convention had been invoked in judicial proceedings before the Portuguese courts.

25. Mr. VALENCIA RODRIGUEZ said that Portugal was clearly a racially mixed and multi-ethnic country. Although the Constitution prohibited the compilation of demographic data based on race or ethnic origin, Portugal could follow the example of other countries with similar constitutional provisions which had provided the Committee with data based on socio-economic studies.

26. A large proportion of the sizeable population of foreigners living in Portugal came from member countries of the European Union and Portuguese-speaking countries. He asked for details of the occupations in which they were employed as an indicator of whether distinctions were made in the light of, inter alia, Portugal's obligations as a member of the European Union. Warmly welcoming the steps taken to regularize the status of illegal immigrants, he requested additional information about an initiative that could set an example for other countries with similar problems.

27. He was pleased to hear that Portugal had made the declaration under article 14 of the Convention and had ratified the amendment to article 8 of the Convention.

28. Gypsies constituted a large and disadvantaged minority. What specific action had been taken or was contemplated, in the light of article 2, paragraph 2, of the Convention, to promote their development? Referring to paragraphs 23 to 27, he praised the action by the Prefect of Braga in defence of the rights of the Gypsy community. The penalties imposed reflected the authorities' determination to honour their obligations under the Convention to prevent acts of racial discrimination. The Committee looked forward to hearing about the outcome of the appeals mentioned in paragraph 27.

29. He trusted that racial or ethnic criteria played no part in the implementation of Act No. 15/98 on asylum and refugees, and that all asylum-seekers were treated equally. The

same applied to Act No. 20/98 on work by foreigners, under which employers were free to employ any worker residing legally in Portugal, regardless of nationality. He wished to know more about how the two acts were applied in practice. Paragraph 33 indicated that there were differences in the employment conditions of foreign workers in Portugal based on the principle of reciprocity. However, such a principle could not always be applied, particularly with respect to economic migrants. With reference to paragraph 38, he sought clarification as to how exactly the Portuguese Government intended to strike a balance between good reception conditions for foreigners and its European Union commitments. By according preferential treatment to immigrants from the European Union, Portugal would effectively be discriminating against those from other regions.

30. Act No. 134/99 prohibiting discrimination in the exercise of rights on grounds of race, colour, nationality or ethnic origin was a very important piece of legislation, which complied with virtually all the requirements of article 2, paragraph 1, of the Convention. Particularly worthy of note was article 4, paragraph 2 of the Act, referred to in paragraph 43 of the report. Paragraph 42 of the report listed some of the discriminatory practices covered by the law; he would, however, welcome information on the other discriminatory practices and whether they were liable to punishment.

31. The activities carried out by the Office of the High Commissioner for Immigration and Ethnic Minorities and the Bureau of Documentation and Comparative Law of the Office of the Procurator General of the Republic complied with the provisions of article 7 of the Convention. What other steps were taken to disseminate information on the instrument and to promote tolerance, understanding and friendship among different sectors of the population? Welcoming Portugal's efforts to combat racial discrimination, he looked forward to a constructive dialogue with the delegation and recommended that the report and the Committee's concluding observations be widely publicized in the State party.

32. Mr. ABOUL-NASR, referring to paragraph 3 of the report, asked what exactly was meant by the statement that the Gypsy population was the only group which could be distinguished from the Portuguese population as a whole. Unlike other Committee members, he did not attach great importance to the provision of statistics, which might be contrary to State policy and involve considerable expense. The information contained in the report was satisfactory for his purposes. However, why did paragraph 6 of the report refer exclusively to refugees from Guinea-Bissau and Kosovo? Surely there must be refugees from other countries too? According to paragraph 7, 201 Guineans had returned to their own country. Had they returned of their own free will?

33. He would also welcome comments on the very serious problem of the arrival on Portuguese shores of illegal immigrants from North Africa in appalling conditions, generally on their way to other destinations in Europe. A comprehensive humanitarian approach was required to deal with such a situation.

34. He understood that sentences had been handed down for those responsible for the events in Vila Verde described in paragraphs 23 to 27 of the report, but wished to know whether any compensation had been awarded to the victims. In his view a public apology would not suffice. What accommodation had been found for the Gypsies who had been evicted and seen their homes destroyed?

35. The section of the report on work by foreigners (paras. 32 et seq.) implied that there was a differentiation in treatment between foreign workers from different countries, which was not acceptable under the provisions of the Convention. He would welcome more information in that regard. According to paragraph 45 of the report Portugal was trying to combat racial discrimination with every means at its disposal. He hoped that meant every legal and peaceful means and not the use of force.

36. Mr. DIACONU said that Act No. 134/99, detailed in paragraphs 40-44 of the report, was undoubtedly one of the most comprehensive pieces of legislation on racial discrimination he had ever encountered in a State party report. Its definition of racial discrimination was fully in line with that of the Convention. Discriminatory practices listed in paragraph 42 with respect to education, employment and public facilities were well covered. He also welcomed the important distinction drawn between natural and legal persons. Nonetheless, what different types of penalties were imposed under the law for the various discriminatory practices listed?

37. No information had been furnished on the socio-economic status of the Roma (Gypsy) population. He would like to know more about their level of education, participation in society and politics and rate of unemployment. Regarding the events that had occurred at Vila Verde, he asked what sanctions had been taken against the mayor who had ordered the demolition of the Gypsy dwellings. Elsewhere such action had sometimes been deemed necessary and lawful in the interests of public health or where the housing had been built on public property. However in the case in point it appeared that the demolition had indeed been unlawful and the person responsible should consequently be punished. What had happened was significant since it demonstrated to what extent the general public was ready to tolerate the Gypsy population. It also pointed to the need for specific social and economic programmes for that community and for awareness-raising among the general public to ensure that such situations did not recur.

38. He shared Mr. Aboul-Nasr's concern about the differentiation in the treatment of foreign workers, referred to in paragraph 33. All foreign workers should be treated on an equal footing and Portugal's current procedures must be reviewed as they were not in conformity with the Convention.

39. Mr. LECHUGA HEVIA, noting that members of the vigilante groups involved in the Vila Verde incident had been given prison sentences, asked whether the mayor of the town, responsible for the arbitrary and racist act of demolishing the Gypsy dwellings, was exempt from punishment on account of his status.

40. Referring to recent developments in legislation relating to foreign workers, he expressed concern about the possibility of employers nonetheless giving preference to European Union workers over those from other regions and inquired whether the situation could be monitored.

41. Mr. THORNBERRY said there were several references in the report to the homogeneity of the Portuguese population - a notion that was somewhat out of date and moreover not in line with the Committee's General Recommendation VIII concerning the interpretation and application of article 1, paragraphs 1 and 4 of the Convention, according to which membership of a particular racial or ethnic group was based upon self-identification, unless no justification existed to the contrary. Did the State party's claim of homogeneity reflect the real situation? Was there no evidence of group solidarity other than among the Portuguese? In view of the process of globalization, Portugal, like other countries, must have many new minority groups.

42. Referring to the Committee's General Recommendation XXVII on Discrimination against Roma, he wondered whether "Gypsies" was really the name the group wished to be known by. He also sought more information on their situation and possible segregation. Why and in what way were such people distinguished from the rest of the Portuguese population?

43. Mr. TANG Chengyuan asked for more information about legislation relating to refugees and in particular the children of refugees born in Portugal. Would they, for example, be eligible for Portuguese nationality?

44. The principle of reciprocity in the treatment of foreign workers referred to in paragraph 33 of the report was difficult to uphold. Agreements between States parties on such matters certainly existed, but were applicable only to citizens sent by their Governments to work in other countries and not to the type of foreign workers found in Portugal, including migrant workers and political refugees. He would therefore welcome some clarification of the matter in general and the phrase "equality of treatment" in particular.

45. Mr. BOSSUYT asked what criteria had had to be met by illegal immigrants to regularize their situation during the ad hoc regularization proclaimed in 1996 under Decree-Law No. 150/96. Apparently 85 per cent of applicants had been successful; but what had become of the remaining 15 per cent? Had they been ordered to leave the country, or had they remained illegally? As of 1996 had the situation with regard to illegal immigration changed at all?

46. The definition of asylum-seekers and refugees contained in Act No. 15/98 of 26 March was considerably broader than that of the Convention on the Status of Refugees. He nonetheless expressed concern about the procedures relating to the granting of asylum under that law, outlined in paragraph 30 of the report, which seemed to be rather cumbersome. Perhaps they should be reviewed.

47. He was pleased to note that the quota requirement in employment had been abolished and that steps were being taken to prevent the exploitation of foreign workers. What exactly was the status of the Office of the High Commissioner for Immigration and Ethnic Minorities and the National Refugee Commission? Were they independent from the Government and, if not, to which ministries were they accountable?

48. The delegation of Portugal withdrew.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 11) (continued)

49. The CHAIRMAN called on Mr. Pillai to report on the outcome of the Asia-Pacific Seminar of Experts in Preparation for the World Conference against Racism: Migrants and Trafficking in Persons with Particular Reference to Women and Children, held in Bangkok from 5 to 7 September 2000, at which he had represented the Committee.

50. Mr. PILLAI said that the seminar had been well attended by States parties, United Nations experts, national human rights commissions in the region and non-governmental organizations (NGOs). During the general discussion, reference had been made to the significant diversity among countries in respect of human rights and socio-economic conditions, and the very wide disparities in per capita incomes, all of which contributed largely to the problems of migration and trafficking and respect for human rights in the Asia-Pacific region, home to a large proportion of the world's poor and illiterate. There had been a great deal of intraregional migration, mainly from the poorer to the richer countries, caused in large measure by political turmoil and poverty. Trafficking was encouraged by the lack of avenues of legal migration and by the operation of internal crime syndicates.

51. Many regional organizations had been represented, including the Association of South-East Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC) which focused on economic and political issues, although in 1997 SAARC had introduced a resolution on trafficking, which was yet to see the light of day. Participants felt that regional associations should play a more important role in human rights issues in general. The conclusions and recommendations adopted by the seminar highlighted the fact that trafficking and migration were closely linked to ethnic issues, such as discriminatory immigration practices and racist and sexist ideologies.

52. Those countries of the region that had still not ratified the Convention had been urged to do so. The participants had also felt that domestic legislation alone did not suffice and that equally important were attitudinal changes - especially in countries comprising very diverse population groups - in which civil society organizations had an important role to play, as did the national and regional human rights institutions. Indeed, the national institutions had organized themselves into a regional association which was addressing issues such as migration and trafficking.

53. With regard to migration, participants had emphasized the need to ratify the 1990 International Convention for the Protection of Rights of All Migrant Workers and Members of Their Families. Migration had a large human rights dimension and should be more actively addressed by human rights bodies. Labour-receiving countries should adopt labour legislation in keeping with minimum international labour standards, while labour-sending countries should set up programmes to alert prospective migrants to the pitfalls awaiting them if they opted for illegal migration or trafficking. Where trafficking was concerned, the main areas

covered by the seminar had been safe rescue, the return and reintegration of victims of trafficking, and anti-trafficking measures. States had been invited to organize training for law and order officials. The recommendations of the seminar were reflected in the Draft Plan of Action that had emerged from the Asian Regional Preparatory Conference held in Tehran. He had himself delivered a paper on migration and trafficking at the seminar.

54. The CHAIRMAN invited Mr. Fall to report on the Regional Seminar of Experts on the Prevention of Ethnic and Racial Conflicts in Africa, held in Addis Ababa from 4 to 6 October 2000 at which he had represented the Committee.

55. Mr. FALL said that, since Africa was the scene of so many conflicts originating in ethnic disputes, the seminar organizers had chosen ethnic conflict as the sole theme. Politicians often used ethnic data to exacerbate differences among the various groups, causing ethnic conflicts to proliferate on the continent. His own theme had been the efficacy of international standards and mechanisms in ethnic-conflict prevention, enabling him to explain the content of the International Convention on the Elimination of All Forms of Racial Discrimination and its role in combating racism. A variety of topics had been raised by other representatives, especially from African human rights and anti-racial discrimination associations. The Declaration that had emanated from the seminar had been used in the preparation of the plan of action of the African Regional Preparatory Conference, held in Dakar. It called on all African States that had not done so to accede to or ratify the Convention and to incorporate it into their domestic legislation. The Final Act had been dispatched to the Office of the United Nations High Commissioner for Human Rights. At the Dakar Regional Conference, the Minority Rights Group (MRG) had organized a seminar for NGOs, at which he had spoken on Convention-related issues, which had given rise to an open-ended discussion. He had also briefed African NGOs on other topics relating to article 14 of the Convention.

56. The CHAIRMAN, thanking Mr. Pillai and Mr. Fall for their work, commended the statement made by the latter on the Committee's behalf to the inter-sessional open-ended working group currently in session. It was important for contacts, spearheaded by the contact group for the World Conference, to be made with participants in the working group as soon as possible so that the contact group could finalize its proposals to the Committee, incorporating any further proposals by other members, by the end of that week

57. Ms. McDOUGALL suggested that the secretariat might be asked to draft a letter on behalf of the Committee, to be dispatched at the earliest opportunity to the regional groups, informing them that it would be helpful to meet with them during the current session.

58. Mr. BOSSUYT said it was preferable to hold confidential talks rather than official meetings with the chairpersons of the five regional groups.

59. Ms. McDOUGALL, supporting that suggestion, suggested that the Chairman of the Committee and a few other members might engage in such talks with the regional group representatives.

60. The CHAIRMAN said he would ask the secretariat to inform the regional group chairmen that the Committee wished to meet them privately to discuss certain proposals that the Committee wished to make for inclusion in the Final Declaration. At that meeting, however, the Committee must already have specific proposals prepared. The letter might also include the document containing the Committee's contribution in its current state (A/CONF.189/PC.1/12), as a basis for further elaboration of certain topics and issues with the regional groups.

61. It was so agreed.

The meeting rose at 5.30 p.m.

**UNITED NATIONS**

# CERD

**International Convention on the Elimination of all Forms of Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1448th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 13 March 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Ninth periodic report of Portugal (continued)

Draft concluding observations on the situation in Togo under the review procedure

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION

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Letter from Mr. Banton, former Committee member and rapporteur

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (continued)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Ninth periodic report of Portugal (CERD/C/357/Add.1) (continued)

1. At the invitation of the Chairman, the Portuguese delegation resumed their places at the Committee table

2. Ms. FERNANDES (Portugal), responding to questions put to the delegation at the previous meeting, said that in accordance with a decree-law of 24 June 1975, nationals of former Portuguese colonial territories could acquire Portuguese nationality and thus obtain the same rights and duties as Portuguese nationals. In that connection, the Government considered that the adoption of a procedure for classifying citizens using so-called racial criteria would run against Portuguese historical, social and legal tradition. Moreover, a recent European directive of 24 June 2000 on equal treatment between persons specified that the European Union, of which Portugal was a member, rejected any theory attempting to determine the existence of separate human races. The Government of Portugal, for its part, considered data on racial discrimination to be unnecessary once a will to combat the problem existed. Moreover, it had just approved, with a view to ratification, the framework Convention for the protection of national minorities adopted by the Council of Europe in 1995, which stipulated in its article 3 that "persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the (...) framework Convention individually as well as in community with others". Apart from the Gypsies, no national minority group had as yet taken advantage of the provisions of that framework Convention.

3. Mr. MARRECAS FERREIRA (Portugal), responding to the question concerning the alleged existence of "subtle racism" in Portugal, said that any cases of racism in the country were isolated incidents. There were thought to be some 40,000 Gypsies living in Portugal, but that figure was approximate since the Portuguese Constitution did not allow differentiation on the basis of race. According to the latest official figures, Portugal had admitted 190,000 foreigners in 1999, and 25,000 in 2000, to whom must be added 25,000 other persons whose situation was in the process of being regularized pursuant to new legislation promulgated in January 2001. In total, 240,000 foreign nationals were said to live in Portugal.

4. The exemption in respect of the requirement for a written contract had been introduced for foreign workers to prevent the importation of illicit labour. Enterprises illegally using foreign labour were subject to fines or the annulment of their procurement contracts. No employment contract was necessary for foreign workers engaged in an activity within the European Economic Area or under the European Social Charter, or for workers who were nationals of countries possessing control mechanisms to prevent trafficking in labour.

5. As to whether foreigners had the opportunity of joining professional associations, enrolling in universities or obtaining loans, Portugal imposed no restrictions based on nationality. An applicant's eligibility for a bank loan depended on credit status, independent

of nationality. All foreigners had access to occupational training through the Institute for Employment and Occupational Training and the European Social Fund.

6. With regard to legislation regulating the work of foreigners, Portugal had become an attractive country for foreign labour by virtue of its low unemployment rate, which was estimated at 3.5 per cent. In addition, a new form of cooperation had been established between the Public Labour Inspectorate, the social security system and the Aliens and Frontiers Department in order to promote the integration of foreign workers into the labour market. If the Public Labour Inspectorate detected an irregular situation in connection with work contracts, it notified the Aliens and Frontiers Department since the situation might be due to an oversight on the part of the immigration services. The social security services would intervene to deal with confused situations.

7. As for access to health care and education, there was no discrimination based on race or nationality. Non-regularized foreigners needing care were treated forthwith, without being asked any questions concerning their background. Access to housing was guaranteed under special rehousing programmes to combat poverty, in particular through the elimination of shanty towns. When a shanty town was demolished, its former occupants were provided with alternative accommodation pending their rehousing in new buildings. It was not an issue whether their situation was regular or irregular.

8. With regard to case law relating to Gypsies, members of the two militias implicated in the case of the Gypsy dwellings in Vila Verde had been sentenced either to two years imprisonment or to prison sentences ranging from two to nine years for the crime of "terrorist association". The sentences handed down in connection with the case had acquired legal authority following rejection of the appeal made to the Supreme Court by the members of one of the two militias involved. The mayor of Vila Verde, who had ordered the demolition of the Gypsy dwellings under pressure from the two militias, had not been prosecuted in the absence of complaints and since, his decision had thus not been contested. However, it should be known that the mayor had not been re-elected: a sign of disapproval on the part of the local inhabitants. The newly elected mayor of Vila Verde had launched a series of programmes to benefit Gypsies, including educational and occupational training programmes, and programmes to combat social exclusion. As to the question of compensation for Gypsies whose homes had been destroyed in Vila Verde, no request had been submitted to that effect. It was important to stress that the Vila Verde Gypsies had remained in town and that their homes had been reconstructed elsewhere in the same locality, which meant that there had been no population displacement as a result of the incident.

9. Furthermore, the ninth periodic report of Portugal contained a section devoted exclusively to Guineans and Kosovars, since at the time when the report was being drafted, both their countries had just been afflicted by major crises. Considering the seriousness of the situation, the Government of Portugal had decided to grant temporary protection to nationals of Kosovo and Guinea-Bissau, to last as long as armed conflict and violations of human rights prevented them from returning to their country. The return of those persons to their country of origin had by no means been obligatory. Regarding asylum-seekers in general, Portugal granted Portuguese nationality to the children of asylum-seekers born in Portugal. The child of a

refugee was not eligible for Portuguese nationality unless the parents submitted a request to that effect. In cases of statelessness, Portuguese nationality was automatically granted.

10. The criteria to be met by immigrants seeking to regularize their situation were as follows: to have been resident in Portugal for at least six months, not to have been awarded a custodial sentence of more than one year and to possess the means to subsist in Portugal. Applicants whose situation had not been regularized had for the most part left voluntarily or been deported. There had however been no collective deportation of foreigners from Portugal. Lastly, concerning the status of the Office of the Portuguese High Commissioner for Refugees, it was an independent body composed of members of the judiciary which intervened during the administrative phase of consideration of the request for asylum. The body reviewed requests for asylum and produced the final binding opinion which determined whether the right to asylum was to be granted.

11. With regard to the dissemination of the work of the Committee, the Committee's concluding observations on Portugal's previous periodic report had been published in the Bulletin of the Bureau of Documentation and Comparative Law and were available on the Web sites both of the High Commissioner for Immigration and Ethnic Minorities and of the Attorney General of the Republic. Portugal had also carried out numerous activities in the framework of the United Nations Decade for Human Rights Education, 1995-2004. Furthermore, a programme devoted to minorities and racial discrimination was broadcast every Wednesday evening at 9 p.m. on public television Channel Two.

12. Ms. DIAS NOBRE (Portugal) said that the distribution of Portuguese workers by occupation was as follows: 44 per cent were machine operators, metalworkers or civil construction workers, 30 per cent were scientists, high-level professionals and executives, 15 per cent were clerical workers, salespeople or service sector employees, approximately 9.5 per cent were skilled workers and craftsmen and 1.5 per cent were farm workers and fishermen. The non-working population included students, housewives and retirees. Of the foreign population, 46 per cent were non-working.

13. Mr. LEITÃO (Portugal) said that the term "Gypsies" or, more precisely, "tziganes" corresponded to that people's wishes. Given that a large proportion of them were more vulnerable to social exclusion than the rest of the Portuguese population, he had personally proposed in 1995 the creation of a working group on problems encountered by the Gypsies. Numerous activities had since been undertaken in their benefit, including in the field of education and occupational training. Moreover, the Government continued to encourage the participation of cultural mediators, not only in schools but also within government bodies, in view of the important role that they could play in the prevention of racial discrimination and racism. Furthermore, a large number of journals and other publications were published to raise awareness of Gypsy history and culture.

14. In his capacity as High Commissioner for Immigration and Ethnic Minorities, he was directly answerable to the Prime Minister and had been appointed in 1995 with the task of facilitating the integration of immigrants and minorities. The activities of the High Commissioner were carried out in collaboration with the civil service departments and non-governmental organizations (NGOs) concerned. He also had the task of coordinating various

intergovernmental working groups, submitting proposals to the Government, conveying to it the opinion of consultative bodies and organizing campaigns to raise awareness of the rights of immigrants and of racism.

15. Mr. de GOUTTES asked why Act No. 134/99 prohibiting discrimination provided only for administrative sanctions and made no provision for criminal penalties. He would also like to know why, in the case of the Gypsy dwellings in Vila Verde, the judge had chosen the charge of terrorist association although the 1995 Criminal Code contained provisions regarding acts of racism. Could the delegation cite any other judicial decisions which penalized acts of racism?

16. Mr. ABOUL-NASR asked whether the High Commissioner for Immigration and Ethnic Minorities was empowered to act in the interest of victims, for example in the case brought up previously, in which the victim had been awarded compensation but had not received it because of failure to claim it. He would also like to know whether the term "Gypsy" used in the report and throughout the oral presentation could be taken as an insult in Portuguese.

17. Mr. YUTZIS (Rapporteur for Portugal) asked the delegation why the Framework Convention for the Protection of National Minorities adopted by the Council of Europe had never been invoked before the courts by members of minorities, Gypsies in particular, since, as the delegation had recognized, they were the chief victims of discriminatory behaviour and activities in Portugal. He also asked whether, in the case of the Gypsy dwellings in Vila Verde, any artificial persons or associations had been sentenced for terrorist association and whether those associations' activities had been prohibited or suspended as provided for in article 4 of the Convention.

18. Mr. DIACONU disagreed with the argument in the report that it was not possible to establish statistics on the ethnic origin of the population because the Constitution specifically prohibited distinguishing between citizens on the basis of origin and race. On the contrary, in his view, demographic statistics that identified the persons concerned as being an ethnic minority constituted a useful tool that could help the Government fine-tune its policies, in the field of education in particular, thus helping to preserve the identity of ethnic groups.

19. He also pointed out that the Framework Convention for the Protection of National Minorities was designed to follow up country policies in regard to minorities but could not be directly invoked by individuals. That being the case, the Council of Europe, which was competent to consider individual complaints, had received very few complaints from Portuguese citizens.

20. Mr. THORNBERRY said that he hoped that Portugal would soon ratify the Framework Convention for the Protection of National Minorities.

21. Mr. LEITÃO (Portugal), responding to the question about the connotations of the word "Gypsy", said that the Portuguese word "Cigano" was not regarded as pejorative. It was the name which all the Portuguese gypsy associations chose to use.

22. Mr. MARRECAS FERREIRA (Portugal) said that the reason why Act No. 134/99 provided only for administrative sanctions was that it had been drafted in order to fill a gap:

formerly, only criminal and civil sanctions had been provided for in domestic law. There were no other legal cases to be cited apart from those referred to in the report.

23. On the question of the charge of terrorist association in the case of the Gypsy dwellings at Vila Verde, he said that the explanation was that the judge had taken as his basis a whole series of articles of the Criminal Code and had determined that the vigilante groups' blocking of access to the dwellings involved various offences (coercion, abduction, terrorism, collective disobedience, threat to transport safety). He had retained only one heading, allowing for a specific definition of the offence. Given that the "terrorist organization" had emerged spontaneously and ceased to exist once the police dispersed the crowd, there had been no grounds for imposing sanctions on any artificial persons or organization. However, a number of natural persons had received sentences ranging from two to nine years' imprisonment.

24. Regarding the case mentioned by Mr. Aboul-Nasr in which compensation should have been paid to the victim of a racist attack, he said that the person had since received the sum due. On the other hand, the Gypsies whose dwellings had been demolished could not be compensated until the decision to order the demolition had been pronounced illegal by a court. Lastly, it was true that individuals believing themselves to be the victims of racial discrimination were not able to invoke the Framework Convention. The instrument had been mentioned to bring out the fact that the only minority which had chosen to define itself as such was the Gypsy minority. The Government would recognize as a minority any other group that wished for such recognition.

25. Mr. YUTZIS (Rapporteur for Portugal) expressed satisfaction at the quality of the dialogue, which had touched on questions such as the definition of a homogeneous and multicultural society, the situation of minorities and aliens, social mobility, the system of foreign workers' contracts, expulsion, compensation for the victims of racial discrimination and the dissemination of the Convention and the Committee's concluding observations. As far as the regularization of the situation of immigrants without documents was concerned, if the trend in Portugal was confirmed, that country would set an example for others faced with the same problem.

26. The CHAIRMAN said that the Committee had thus completed its consideration of the ninth periodic report of Portugal.

27. The Portuguese delegation withdrew.

Draft Concluding Observations on the Situation in Togo under the Review Procedure (CERD/C/58/Misc.15/Rev.1, Conference room paper, English only)

28. Mr. DIACONU (Rapporteur for Togo) said that, in his draft conclusions, the Committee regretted that the Togolese Government had submitted no report since 1981 and had not responded to its invitation to take part in the current session. It suggested that the Togolese Government should avail itself of the technical assistance offered by the Office of the High Commissioner with the aim of drawing up and submitting a report by January 2002 and urged the Government to resume its dialogue with the Committee as soon as possible.

29. The Committee's draft concluding observations on the situation in Togo were adopted, subject to any necessary editorial changes.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 7) (continued)

30. The CHAIRMAN reported that the Committee's secretariat had that morning received a periodic report from Jamaica for the period 1986-2000. The report had been submitted very late and the Committee was due to examine the situation in Jamaica under the review procedure at the current session. He proposed that that arrangement should be cancelled and that the report of Jamaica just submitted should be considered at the Committee's fifty-ninth session after translation into the working languages.

31. Mr. RESHETOV (Rapporteur for Jamaica) said he was glad that Jamaica had finally submitted a report and endorsed the Chairman's proposal that the report should be considered at the Committee's next session. Without going into the substance of the report, he said that it was at first sight incomplete and not drawn up in accordance with the Committee's guidelines.

32. The CHAIRMAN suggested to the representatives of Jamaica (present in the meeting room) that the Jamaican Government should at once take steps to provide a supplementary report or a revised version of the report that had been submitted, in the interest of the future dialogue between the Committee and the State party. He also instructed the Secretary to inform the Permanent Mission of Jamaica that the Rapporteur for Jamaica (Mr. Reshetov), and he himself as Chairman of the Committee, were at the Jamaican authorities' disposal to assist in drawing up the report. As he heard no objection, he would take it that the Committee decided to cancel consideration of the situation in Jamaica in accordance with the review procedure.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 4) (continued)

Letter from Mr. Banton, former Committee member and Rapporteur

33. The CHAIRMAN said that, in reply to the letter which he had addressed to Mr.Banton at the beginning of the session on the Committee's behalf, Mr. Banton had written to him, asking him to forward his respects and good wishes to the members of the Committee, and also suggesting that a list should be drawn up of former Committee members who might wish to maintain a link with it. Such members could be sent a copy of the Committee's annual report and invited to write to the Chairman if they had any comments to make. Their letters would be circulated to the members of the Committee when sessions were held.

34. He was himself in favour of the suggestion and, as he heard no objection, he would take it that the Committee approved the proposal.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 11) (continued)

35. Mrs. McDOUGALL (Contact Group Coordinator) invited the members of the Committee to send her their written suggestions for amendments to the draft Declaration and Programme of Action of the World Conference. The revised version of the draft would be available at the end of the day.

36. The CHAIRMAN said that so far the inter-sessional working group of the Preparatory Committee had examined only the preamble and first two operative paragraphs of the Declaration. Accordingly, he invited the members of the Committee to communicate their proposals for amendments to the Contact Group Coordinator straight away, using the first version of the draft.

The meeting rose at 12 noon.

**UNITED NATIONS**

# CERD

**International Convention on the Elimination of all Forms of Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1449th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 13 March 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

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Fifteenth periodic report of Germany

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (continued)

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GE.01-40990 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Fifteenth periodic report of Germany (CERD/C/338/Add.114; HRI/CORE/1/Add.75)

1. At the invitation of the Chairman, Mr. Lewalter, Mr. Stoltenberg, Mr. Radziwill, Mr. Blath, Mr. Haberland, Mr. Rothen, Ms. Zeitz and Mr. Dieter (Germany) took places at the Committee table.

2. Mr. LEWALTER (Germany), introducing the periodic report (CERD/C/338/Add.114), said that the far-reaching political, social and economic changes brought about by the reunification of Germany and the unprecedented increase in the number of foreigners given temporary refuge in the country had led to an alarming increase in racist and xenophobic incidents in the mid-1990s. Determined action by the authorities had for a time achieved a substantial decline in the registered number of such incidents but recent statistics again showed a sharp increase, which the Government viewed as shameful and unacceptable. The most fundamental value recognized by the German Basic Law was the dignity of all human beings: hence the constitutional prohibition of discrimination on grounds of race, ethnic origin or religious belief. High priority was given to the fight against racism and xenophobia not only by the executive, the legislature and the judiciary but also by civil society, both because of Germany's historical experience and because of its many years of coexistence with foreign residents who had become an integral part of society and had helped to build prosperity in post-war Germany. Integration could be achieved by respecting different cultural values and customs. It did not require total assimilation at the expense of cultural, religious and linguistic identity.

3. Germany acknowledged the existence of shortcomings in its defence of human rights and did not view them as an internal affair. It was grateful for all international assistance and attached the utmost importance to the human rights treaty monitoring system. In that spirit, Germany counted on the Committee's support and constructive criticism and would pay careful attention to its advice.

4. Mr. STOLTENBERG (Germany) said that the Federal Government opposed any attempt to gloss over recent right-wing extremist, xenophobic, racist and anti-Semitic attacks. They were despicable criminal acts against which the law enforcement authorities were taking vigorous measures. At the same time, steps were being taken to promote understanding among all members of the population and to create a political and social climate in which people no longer turned a blind eye to events but, as democrats, spoke out against undesirable trends.

5. Germany had signed Protocol No. 12 to the European Convention on Human Rights which prohibited discrimination on a variety of grounds. The Federal Government intended to review the possibility of making the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination in response to the urgent appeal by the United Nations High Commissioner for Human Rights.

6. In the light of the United Nations principles relating to the status of national institutions for the promotion and protection of human rights (the "Paris principles"), an independent German Institute of Human Rights to monitor the internal human rights situation had been established the previous week. The Federal Parliament had set up an independent Human Rights Committee and the Federal Government's biennial Human Rights Report to the Federal Parliament would in future focus on the internal human rights situation.

7. Germany had ratified the Council of Europe Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, and had submitted its first reports in respect of those instruments following consultations with the minorities concerned. The Sinti and Roma now enjoyed effective protection and received financial assistance from federal funds. Those who had been subjected to forced labour during the Nazi era received compensation payments from a newly created Foundation.

8. Turning to the fight against racist propaganda, he said that 474 persons had been convicted of disseminating propaganda and 423 for using the symbols of unconstitutional organizations in 1998. Together with the Friedrich Ebert Foundation and the Simon Wiesenthal Center, the Federal Ministry of Justice had convened an international conference to combat hate and right-wing extremism on the Internet in June 2000. A Berlin Declaration called for action by States, Internet users and the business community against the global commercial exploitation of hate on the Internet.

9. The Federal Government had filed an application with the Federal Constitutional Court for a declaration of unconstitutionality of the right-wing extremist National Democratic Party of Germany (NPD), which sought to abolish the basic democratic order and was becoming increasingly aggressive. The Federal Council (the upper chamber) and the Federal Parliament also intended to file applications with the Court. In September 2000, the Federal Minister of the Interior had banned the neo-Nazi skinhead group "Blood and Honour Division in Germany" and its youth organization, which opposed the constitutional order and international understanding. Although the ban had not yet taken full effect, the propaganda activities of prominent activists had been curtailed.

10. Turning to article 5 of the Convention, he said that the Bosnian Serb Dusco Tadic, who had been convicted by the International Criminal Tribunal for the former Yugoslavia, would serve his prison sentence in Germany. On 11 December 2000, Germany had ratified the Rome Statute of the International Criminal Court. It had also decided to strengthen the basis for the prosecution of international crimes, including apartheid and persecution on racist grounds, by national courts. A corresponding bill would be submitted later in the year.

11. A European Union Directive of 29 June 2000 concerning equal treatment of persons irrespective of racial or ethnic origin sought to prevent discrimination in the private sector. Current German law did not yet satisfy the requirements of the Directive. Disadvantageous treatment could be countered only by a claim to compensation, and there was also no clear regulation of the burden of proof in favour of the person who had experienced discrimination. The competent ministries were currently drafting the necessary bills for implementation of the Directive in good time.

12. The Federal Government had established an Alliance for Democracy and Tolerance and against Extremism and Violence, which had gained widespread support from voluntary associations, schools and prominent politicians, artists and sports personalities. Its work was structured by a 20-member Advisory Council representing the Federal Government and Parliament, business, trade unions, the Jewish community and social organizations. The Alliance offered advice and support for projects and publicized praiseworthy examples of civil commitment. A special event based on the slogan "Young People for Democracy and Tolerance" would be held on 23 May 2001, German Constitution Day. Anti-violence sporting events had proved particularly successful. A national poster campaign had been launched, local newspaper editors and municipal office-bearers had been given advice on addressing the issue of foreigners and extremism, and stars from the music world had made statements against xenophobia and in favour of cultural diversity.

13. The Federal Government was funding three anti-racist programmes addressed to young people. The Xenos programme focused on promoting labour-market measures to build understanding between German and foreign youth. A programme called "Measures against Violence and Right-wing Extremism" was targeted at children at various levels of education. The third programme, "Promotion of Model Projects against Right-wing Violence in the New Länder", was designed to replace extremism, xenophobia, racism and anti-Semitism by an inclusive culture involving the whole community.

14. The Federal Government was extremely concerned about the enormous increase in racist crime in 2000. There had been an increase of 58.3 per cent in right-wing extremist crimes, of 57.4 per cent in offences with a xenophobic background and of 68.7 per cent in anti-Semitic crimes. An increase of 34 per cent had been recorded in violent offences. It was a particularly shameful situation when seen against the background of German history. The Federal Government was engaged in a thoroughgoing analysis to establish the causes. In addition to the provision for victim compensation described in the periodic report, the German Federal Parliament had provided DM 10 million in compensation for victims of right-wing extremist violence in December 2000. In conclusion, he informed the Committee that Germany's periodic report had been posted on the Internet.

15. Mr. BOSSUYT (Country Rapporteur) said that Germany's size and federal structure, the number of foreigners living there and the country's historical responsibility vis-à-vis certain ethnic groups made the task of considering its reports extremely difficult. A brief review of political developments might assist in understanding the current situation. In the early 1990s liberal asylum procedures in Germany had led to an increase in support for small extremist right-wing groups and to an upsurge in acts of violence against asylum-seekers. Extremist right-wing parties had gained ground in the 1992 Länder elections. Following a constitutional amendment to the right of asylum in 1992, the number of applications for asylum had declined sharply. In 1994, the Federal Parliament had introduced more severe penalties for extremist acts of violence and for Holocaust denial, and extreme right-wing parties had received little support in the federal elections. In 1997, high unemployment had been associated with an upsurge in the activities of extremist organizations. The Deutsche Volksunion, an extremist right-wing party in Sachsen-Anwalt, an economically depressed Land in eastern Germany, had obtained almost 13 per cent of the vote. In the 1998 federal elections, which had brought to power a new coalition of Social Democrats and Greens, no extremist right-wing candidate had won a seat in

the Federal Parliament. In 1999, the Act on the Reform of the Nationality Law had been adopted and the Government had agreed to pay considerable sums in compensation to victims of forced labour or dispossession under the Nazi regime.

16. With regard to the protection of minorities, he noted that the Sinti and Roma were now recognized as national minorities and that the Jewish community had doubled since 1990 as a result of immigration from the Commonwealth of Independent States (CIS). He took it that the four ethnic groups to which the Council of Europe Framework Convention for the Protection of National Minorities was deemed to be applicable were the Danish and Sorbian minorities, the Friesians, and the Sinti and Roma. It would be interesting to learn whether that understanding of the scope of the Convention was a direct result of its provisions or reflected the German Government's interpretation.

17. The report drew a distinction between indigenous minorities in countries whose frontiers had been adjusted and who had been afforded special protection under the Peace Treaties following the First World War, and foreigners or recently naturalized Germans whose presence in the country was a matter of personal choice and who had not been affected by the redrawing of borders. According to paragraph 22 of the report, persons in the latter category enjoyed sufficient protection under ordinary law.

18. In 1997 the total population of Germany had stood at 82 million, 7.3 million of them foreigners, including 2.1 million Turks. He noted the special policy focus on the integration of foreigners living permanently and legally in Germany (report, para. 54), the substantial budget allocations for promoting the integration of foreign employees and their families (para. 55), and the improved educational situation of young Turks (para. 56). There were around 3 million Muslims in Germany, with more than 2,000 places of worship. He therefore wondered why a judgement of the Berlin Higher Administrative Court had been necessary to authorize an Islamic association in Berlin to provide religious instruction, as mentioned in paragraph 58 of the report.

19. In the past German nationality law had been based on the strict concept of ius sanguinis, which had made the naturalization of foreigners extremely difficult, although so-called ethnic Germans had been able to acquire nationality automatically and thus the right to reside in the country without restrictions. The July 1999 Act on the Reform of the Nationality Law had therefore been an important development since it had introduced the principle of ius soli, under the conditions described in paragraphs 62 and 63 of the report. He asked what impact the reform of the Nationality Law had had so far.

20. In a report produced in February 2001, Amnesty International alleged that, although there had been fewer complaints relating to ill-treatment of foreigners by the German police, such complaints were nonetheless not followed up in a satisfactory manner; it appealed for the regular publication of statistics relating to such incidents, and cited cases of ill-treatment between 1994 and 2000 against foreigners of Mediterranean and African origin.

21. According to other non-governmental organization (NGO) sources, between 1987 and 1992 the number of requests for asylum had almost doubled, reaching a record high of 438,000 in 1992. That had led to an amendment to the constitutional provision relating to asylum and since then the number of requests had declined significantly. In 2000, for the first

time in many years, Germany had no longer been the European country with the highest number of asylum applications. In 1999 the rate of approval for applications had been 3.5 per cent, with 4.5 per cent of asylum-seekers obtaining a stay on their order to leave the country. At the Committee's request, the State party had provided an updated list of "safe countries", drawing a distinction between 14 "third countries" and 6 "countries of origin". In 1998 the Committee on Economic, Social and Cultural Rights had expressed concern about the slowness of the procedures for examining asylum applications. Amnesty International had referred to excessive use of force during the repatriation of asylum-seekers whose applications had been dismissed, resulting even in the death of a Sudanese citizen in May 1999. Following a visit to Germany in May 1998, the European Committee against Torture, while recognizing the difficulty of enforcing a removal order for a foreign national determined to stay on a country's territory, had stated that no more force than was reasonably necessary should be used by law enforcement officials in such situations.

22. German criminal law provided for penalties for incitement to racial hatred. As borne out by the information contained in the report, sentences were handed down frequently for incitement to hatred, dissemination of racist propaganda and the use of symbols of anti-constitutional organizations (paras. 33-35). Moreover, since 1992, 10 regional associations with extreme right-wing objectives had been banned (para. 38). Referring to the decision by the Federal Constitutional Court to reject Federal Government applications to deprive the right-wing extremists of their fundamental rights (para. 40), he sought clarification regarding the scope of article 18 of the Basic Law. How could it be decided that someone would continue to pose a threat to the free democratic basic order of the Republic in future? In the light of the statement that xenophobic manifestations reflected deeply rooted prejudices and latent fears inter alia among the unemployed (para. 78), he asked to what extent the unemployment rate was linked with xenophobic manifestations.

23. The Federal Government had adopted a wide range of measures to combat xenophobic manifestations, including the establishment of a special police service in 1991 for recording xenophobic crimes. It was therefore disappointing to hear that notwithstanding such efforts and their positive results until 1998 there had been a significant rise in anti-Semitic crimes in the previous two years. Also praiseworthy were the measures adopted to combat racism and racial discrimination in foreign policy, (paras. 41-46), cooperation with the International Criminal Tribunal for the former Yugoslavia and the International Tribunal for Rwanda and the ratification of the Statute of the International Criminal Court.

24. Mr. de GOUTTES said he had been impressed by the delegation's frank recognition of the recent rise in xenophobic acts, considered by the Federal Government to be "shameful". The Government was clearly taking steps to combat such problems by banning extreme right-wing associations and even applying to the Federal Constitutional Court in order to declare the unconstitutionality of the NPD party. What was the likelihood of that party eventually being banned? Other positive steps included the numerous sentences handed down in connection with racist propaganda; information campaigns such as "Xenos"; the establishment of a fund to compensate the victims of racial discrimination; the creation of independent human rights bodies, and greater emphasis on the national human rights situation in the Federal Government's biennial human rights reports.

25. Referring to paragraph 68 of the report he asked what progress was being made with the proposals for comprehensive anti-discrimination legislation under the Coalition Agreement of 20 October 1998. It was his understanding that the Government was somewhat hesitant, given the existence of broad-ranging constitutional, administrative and legislative provisions. Was it likely that the Committee's recommendations on the subject would be followed up?

26. Paragraphs 140 to 145 of the report explained why it was not deemed necessary to establish a special centre responsible for implementing the provisions of the Convention, given the existence of the Federal Government Commissioner for Foreigners' Affairs. Perhaps the newly-established German Institute of Human Rights might also have a role to play in that connection. He would welcome more information on its membership and terms of reference.

27. Aside from the information campaigns targeted at young people mentioned in the introductory statement, were there plans for any other programmes to disseminate the principles enshrined in the Convention, for instance, among law enforcement officials? That would seem to be necessary in view of Amnesty International's reports of the ill-treatment of foreigners by the German police. He stressed the importance of involving them in efforts to combat racial discrimination, as highlighted in the Committee's General Recommendation XIII.

28. Was there any prospect of Germany making the declaration under article 14 of the Convention? Since Germany was already a signatory to the European Convention on Human Rights and Protocol No. 12 thereto, the declaration under article 14 would provide German citizens who were victims of human rights violations with a wide range of remedies.

29. Mr. VALENCIA RODRIGUEZ, referring to positive developments relating to article 2 of the Convention, highlighted the three parliamentary seats held by the Danish minority in Schleswig Holstein, activities relating to the Jewish community, including the "Day of Remembrance for the Victims of National Socialism", the ratification of the Council of Europe Framework Convention for the Protection of National Minorities and the European Council Charter for Regional or Minority Languages, and the joint establishment by Germany and Denmark of the European Centre for Minority Issues (ECMI). Information on the impact of those initiatives would be appreciated.

30. In response to the Committee's concerns, paragraphs 13 to 22 of the report explained why Germany did not deem it necessary to grant special protection to certain population groups which were larger in number than the four small groups traditionally accorded the status of national minorities. While he understood the arguments put forward, he recommended that the matter should be kept under review.

31. With regard to the implementation of article 3 of the Convention, he agreed that, for a number of reasons, foreign workers preferred to live near their compatriots. It would therefore not be appropriate to force them to leave such districts for others assigned by the authorities. What was required, however, were appropriate measures to promote the integration of foreigners in German society, through employment programmes or cultural events.

32. Among the positive developments with respect to article 4, he cited the steps taken to combat racist organizations and the dissemination of racist propaganda and the successful extradition and sentencing of a United States citizen for inciting to racial hatred, disseminating propaganda and using the symbols of anti-constitutional organizations (para. 31). Although the relevant provisions of the Penal Code were being properly applied, racist manifestations must be even more closely monitored. The consideration given to the possibility of suspending certain basic rights such as freedom of the press, assembly and of association in the event of their abuse (para. 39) showed that the German Government had struck the right balance between the exercise of such rights and its obligations under article 4 of the Convention. However it was also important to coordinate national efforts with those at international and, especially, European levels.

33. Referring to information provided on article 5 of the Convention, he highlighted Germany's cooperation with the international tribunals for the former Yugoslavia and Rwanda. As to legislation relating to foreigners and asylum procedures, while he understood the reasons for drawing up a list of "safe countries" he stressed that it was a very sensitive matter requiring a cautious approach, and that the list must be based on objective criteria. Clearly considerable progress had been made with regard to the integration of foreigners, in guaranteeing them equal opportunities, including access to the courts of law, and ensuring their full participation in society. The Committee should be kept informed of further developments.

34. He appreciated the Federal Government's efforts to consider the Committee's proposal to adopt comprehensive anti-discrimination legislation. In that connection he sought more information on provisions improving access to the labour market for foreigners by removing the obligation for them to have a work permit.

35. With respect to article 6, he understood the Government's serious concern about manifestations of xenophobia and racial discrimination. He noted that there had been an increase in anti-Semitic crimes which called for continued education and training as well as the application of the law where necessary. He applauded the extensive research done on the causes of such crimes, whose results should form the basis for action by the authorities. Advantage should also be taken of the general rejection of such discriminatory and xenophobic attitudes by the majority of the German population. More training courses should be organized for police officers in view of complaints about their unreasonable use of force against groups of foreigners. Referring to the information provided in paragraphs 116 and 117, he asked whether a tourist staying in Germany for a short time who was the victim of an act of violence would also be eligible for compensation. In the affirmative, what type of compensation would he or she receive?

36. Mr. ABOUL-NASR said that he appreciated the German delegation's recognition of the contribution of foreign workers to Germany's prosperity. In view of the urgent need for manpower in Europe in coming years, he asked how many foreigners were required to keep economic growth on track. Foreigners did not come solely for political asylum or for charity, but were needed and should be thanked for their contribution and treated accordingly.

37. He asked whether the human rights report referred to in the delegation's introductory remarks was available. He had heard that it did not contain any criticism of Israel and the events in the occupied territories, which he found difficult to believe.

38. Mr. STOLTENBERG (Germany) said that the report was available on the Internet.

39. Mr. ABOUL-NASR said that, as an African, he was unfamiliar with the Internet. Turning to Germany's fifteenth periodic report, he said that the relevance of many of the references to European conventions, treaties and standards was unclear to him. He also questioned the use of the term "extreme right", which was not necessarily tantamount to racist. Rather that refer to the extreme right and skinheads, it would be preferable to talk about racist organizations or parties. He asked if it was true that the major European pharmaceutical companies refused to lower their prices for medication for AIDS sufferers, and, if so, whether anything could be done about that situation. He then raised the problem of landmines in Egypt dating from the Second World War, still buried in the desert and claiming casualties every day. Germany had done much work cleaning mines from parts of Europe. Those who had laid the mines in his part of the world might well show an interest in saving the lives of non-Europeans, who were the victims of someone else's war.

40. Mr. RECHETOV, commending the regularity of Germany's contacts with the Committee, the high quality of its report and the frank discussion of the country's problems, noted first that the periodic report referred to the protection and assistance given to Muslim groups, but said nothing about how the rights of Germany's traditional ethnic groups were protected. More information was needed to have a full picture of the situation.

41. Referring specifically to paragraph 9, he said that Germany had recently announced with great pomp that it was setting up a fund to give compensation to persons, primarily from Eastern Europe, who had been used for forced labour. Of course, there was no way to compensate those persons fully for their suffering; the initiative was meant as a symbolic gesture. His own country, too, had a debt towards the Poles and other peoples. That being said, he had recently learnt from the German media that major German companies did not intend to make any further contributions to the fund. Could the German delegation comment?

42. Mr. TANG Chengyuan said that article 7 of the Convention stressed the importance of education in combating the root causes of racial discrimination. The media had a role to play in that regard, an aspect which was touched upon in Germany's report. Schools must teach equality and promote human dignity. He was pleased to note that centres had been set up to promote understanding of foreigners among young people. Efforts to combat racial discrimination must focus on the primary and secondary school level so as to make Germans aware of their historical responsibility. The report had failed to give sufficient emphasis to that goal, which was a long-term task.

43. There had been many complaints by foreigners from third world countries about the excessive use of force by the German police. Although there had been some improvement in the situation, measures must be taken to combat that trend and give it greater attention in the media.

44. Mr. DIACONU said that, for historical reasons, Germany had focused above all on what today were small minority groups, while failing to recognize as such the much larger minority groups that had arrived more recently. Millions of persons belonged to those groups; many had taken German nationality and were there to stay. The point in recognizing such groups was to help them preserve their linguistic and cultural identity, and Germany had made efforts in that regard. Why not go further in that direction? The explanation given in paragraphs 20 and 21 of the report that such persons had come to Germany by choice was not convincing. Germany had encouraged them to come and had even granted many of them German citizenship. In that connection, he asked whether the Turk, Yugoslav and Moroccan communities had their own cultural associations, and whether any schools offered classes for such groups in their mother tongue or bilingual education.

45. He welcomed the progress made with regard to dual nationality. He noted that in the 1980s, persons from one particular group living in Germany had been required to give up their nationality as a condition for applying for German nationality, but their applications had then been rejected, and they had become stateless; they had thus been unable to return to their country of origin or even make use of their property there.

46. Racially motivated acts of violence by the police persisted. Hence the need to educate the police about the need for tolerance of others. In that context, he welcomed the more severe punishment recently adopted for acts of racist violence. The most important problem in Germany was the resurgence of manifestations of xenophobia, racial discrimination and prejudices. If politicians had the courage to make it clear that Turks, Yugoslavs and other ethnic groups were in Germany to stay and that they should no longer be considered foreigners, it might change mentalities and accustom people to that reality. The German Government acknowledged that national awareness was not inconsistent with an "intercultural opening-up" (para. 146). That was a good starting point.

47. Mr. THORNBERRY drew attention to the statement in paragraph 6 that German Sinti and Romanies "will also be termed a national minority". Was that a concession, or did it stem from the German understanding of the words "national minority"? In other words, did that terminology acknowledge a right or a privilege granted by the State? Regarding the statement in paragraph 14 that each ethnic group had the right to keep its own language, did that mean that positive measures might be appropriate in order to ensure that right? Once again, it looked like a concession.

48. He had read with interest (para. 13 et seq.) about the historical development of Germany's view of minorities and importance of the redrawing of borders. But minority rights were not confined to persons affected by border changes, and he drew attention to General Comment No. 23 of the Human Rights Committee, from which it emerged that recognition of minorities could not be entirely dominated by historical considerations and that there was always room for the emergence of new groups, including those arising through contemporary processes of globalization. Was Germany's understanding of nationality consistent with that position?

49. In the section relating to article 3 of the Convention (para. 23 et seq.), there seemed to be some question of de facto residential segregation; he drew attention to the Committee's General Recommendation XIX in that connection. Paragraph 26 referred to the element of choice when people decided to live in a given neighbourhood. That called for consideration of the extent to which such choices were voluntary: it might require more than market forces if certain groups were to have more choices. Regarding paragraph 86, he welcomed the study on the profile of xenophobic offenders, which was very important for backing up national policy. It was to be hoped that the references in the draft declaration of the World Conference against Racism to the need for research into the causes of racism would be retained and strengthened.

50. Mr. SHAHI noted that there was considerable disquiet about the resurgence of far-right extremist violence in Germany, particularly in the eastern Länder. He welcomed the spirit of the German delegation's statement, which reassured him that Germany was fully aware of its responsibilities under the Convention. He was particularly impressed that the German Chancellor had recently travelled by bus throughout the eastern Länder to bring home how seriously he regarded the upsurge of far-right extremism. Civil society had also been mobilized to combat the phenomenon. There had also been reports that Germany was experiencing problems with racist propaganda on the Internet and had been unable to take effective action against service providers, particularly in connection with racist speeches from Web sites located outside the country. To what extent did the German Government consider it possible to punish persons who disseminated hate propaganda in Germany from abroad?

51. Mr. YUTZIS asked whether the German Government knew the reason for the recent resurgence of racist incidents. Could it confirm the figure of 1,084 anti-Semitic crimes reported in 2000? Paragraph 82 referred to the increase in "propaganda crimes". What was the percentage of propaganda crimes in overall figures on xenophobic crimes committed in 2000? Such data would give an idea of the importance of the role played by racist groups or organizations in providing logistical support for such offences. With regard to the hiring of foreigners by the police (para. 103), he asked what percentage they represented in the police force and what was being done in the police force to change attitudes.

52. He commended the initiative to offer Islamic religious instruction in schools (para. 59) and urged the German Government to try to find the best approach to resolving the dispute over the form such instruction should take so as to be able to carry through that useful initiative. He welcomed the reform of the nationality law (para. 62) which was crucial to resolving the problems of immigrants and foreigners. He asked the German delegation to expand upon the reference in paragraph 92 to the impact of pluralism, individualization - which presumably should read "individualism" - and globalization. Agreeing with the strong statement contained in paragraph 146 of the report, he said that the emphasis should not be on identity alone. Much more important was recognition of and respect for that identity, along with the eradication of differences in treatment. He noted from the State party's report the substantial measures taken to combat racism, racial discrimination and xenophobia.

53. The delegation of Germany withdrew.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (Draft declaration and programme of action of the World Conference, as amended by the Committee on the Elimination of Racial Discrimination, document without a symbol, in English only)

54. Ms. McDOUGALL introducing the latest version of the amended text, said that, using the document containing the Committee's contribution (A/CONF.189/PC.1/12) as a basis, she had inserted additions to the draft declaration and programme of action in bold italics. In paragraph 102 of the programme of action she had added an entire section concerning the Convention. She drew members' attention in particular to paragraph 126, subparagraph (b) - not one of her additions - containing a recommendation to establish a new monitoring mechanism. The Committee should decide whether it supported that idea. The draft before the Committee contained a great many proposed amendments, although nothing controversial had been added. She asked members to confine their questions to the additional points. The amended paragraphs did not cover points raised at the inter-sessional meeting.

55. Mr. ABOUL-NASR, referring to paragraph 126, sought support for his suggestion that the Committee should be entrusted with follow-up to the Conference, rather than agree to the establishment of a new monitoring mechanism.

56. Mr. BOSSUYT, supported by Mr. SHAHI, suggested that the phrase "As amended by the Committee on the Elimination of Racial Discrimination" should read "As suggested by the Committee on the Elimination of Racial Discrimination" in the title on page 1, since the Committee was not empowered to amend a text not its own. He supported Mr. Aboul-Nasr's suggestion, on the grounds that paragraph 126, subparagraph (b) would involve the creation of yet another monitoring body for racially discriminatory acts, when that was precisely the Committee's remit.

57. The CHAIRPERSON pointed out that subparagraph (a) was just as relevant to the issue as subparagraph (b).

58. Mr. de GOUTTES commended the work done on the draft, especially on paragraphs 103 to 111, which contained some very important points, most particularly paragraph 109 concerning early warning measures. Supporting Mr. Aboul-Nasr's proposal, he suggested that the Committee might at least offer its services as the monitoring mechanism for the declaration. He also proposed that national human rights commissions or institutions should be added to the list in parentheses in paragraph 5, line 2, of the programme of action.

59. Mr. SHAHI disagreed with Mr. Aboul-Nasr's proposal on the grounds that it might not be acceptable to the States parties that the Committee should serve as the monitoring mechanism. Also, he recommended caution before the Committee assumed another mandate, which would add a significant burden to its already onerous schedule.

60. Mr. DIACONU commended the inclusion of the references to the Committee and the Convention in paragraphs 102 to 111 of the programme of action, but felt that the Convention should also be mentioned in the declaration. Moreover, it was vital that mention of the implementation of economic, social and cultural rights in paragraph 8 of the declaration should be preceded by a reference to the implementation of the Convention. Turning to the programme of action, he proposed that the phrase "in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination" should be added at the end of paragraph 1, subparagraph (a). Regarding Mr. Aboul-Nasr's proposal, the Committee already had a mandate. However, it could offer to take account of the declaration and programme of action in its consideration of States parties' reports. Since some of the tasks enumerated in paragraph 126, subparagraph (b), for the proposed new monitoring mechanism duplicated the work of the secretariat, he proposed that it should be replaced by a subparagraph to the effect that the secretariat of the Office of the United Nations High Commissioner for Human Rights would perform those tasks. He would submit his proposals in writing to Ms. McDougall.

61. Mr. TANG Chengyuan said he wondered whether the proposal contained in paragraph 108 of the programme of action differed in any way from the Committee's current function. He advocated prudence with regard to the proposal contained in paragraph 109, which would increase the Committee's workload. Any such proposal would need to be submitted to the President of the World Conference.

62. Mr. FALL disagreed with Mr. Aboul-Nasr's proposal on the grounds that it was normal for world conferences to establish follow-up mechanisms without encroaching on the Committee's territory. Those were political issues and should be dealt with at the political level.

63. Mr. ABOUL-NASR withdrew his proposal.

64. Ms. JANUARY-BARDILL drew attention to an apparent duplication in paragraphs 101 and 126 with regard to studies, research and the compilation of data by regional centres and by the proposed international monitoring mechanism.

65. Mr. PILLAI asked in what form the Committee wished to see its own centrality and that of the Convention expressed in the document. Section XIX could be worded in such a way as to place the focus on both. Paragraph 109 dealt with early warning procedures, while paragraph 18 (a) also dealt with capacity-building for early warning. Section I was entitled "Measures at the National Level", and section XIX "Measures at the International Level", but which type of measures did the intervening sections cover? It was important that there should be no repetition or overlapping.

66. Mr. THORNBERRY said that as the new draft stood there was a huge overlap between paragraphs 84 and 85 of the draft programme of action. He would also submit to Ms. McDougall some proposals regarding minorities for section XIII.

67. Mr. SHAHI said that emphasis should be placed on early action as well as on early warning.

68. Ms. McDOUGALL, supported by the CHAIRMAN, urged members to refrain from proposing structural changes, since any proposed amendments from the Committee would be subject to a tolerance level it would do well not to exceed. In response to Mr. Pillai, she explained that some degree of overlapping was unavoidable. Early warning, to take one example, was germane to prevention activities, but also to the section on the Convention and the work of the Committee. It might also be a positive gesture to present the text containing the Committee's suggested amendments to the High Commissioner for Human Rights when she addressed the Committee on the following day.

69. The CHAIRMAN said that it would be premature to do so before the revised text submitted by the Committee had been finalized, at which stage it would be submitted to all bodies concerned, including the Preparatory Committee.

The meeting rose at 6.15 p.m.

**UNITED NATIONS**

# CERD

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1450th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 14 March 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10 a.m.

STATEMENT BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

1. The CHAIRMAN welcomed the High Commissioner for Human Rights and thanked her for finding time for the Committee when she was very busy with the preparations for the World Conference against Racism to be held in September 2001, of which she was the Secretary-General. The Committee stood ready to play a leading role in the preparations for the World Conference, and during the Conference itself.

2. Mrs. ROBINSON (High Commissioner for Human Rights) said that the Deputy High Commissioner for Human Rights, Mr. Ramcharan, had informed her of the substance of the discussions at the Committee's opening meeting, which she regretted she had not been able to attend. She wished personally to welcome the new members, Mr. Tang and Mr. Thornberry, and informed the Committee that she had sent a letter of thanks to the members who had resigned, Mr. Nobel and Mr. Bryde.

3. She noted with satisfaction that the preparations for the World Conference had had a beneficial effect on the attitude of States towards the Convention. Since the Millennium Summit, in September 2000, a further five States had ratified the Convention and three States parties had made the declaration under article 14, bringing the number of ratifications to 157 and the number of declarations under article 14 to 33. During the Millennium Summit, she had strongly encouraged States to accede to international human rights treaties, and she had sent a letter to all the Heads of States that had not yet ratified the Convention or made the declaration under article 14, inviting them to do so as soon as possible.

4. With regard to the activities of the Office of the High Commissioner, she said that she had launched a fresh appeal for voluntary contributions in 2001 with a view to financing a biennial programme to improve support services for the system of monitoring the application of international instruments, and that at the most recent monthly meeting with government representatives she had placed particular emphasis on support for treaty bodies. She expected that additional funds would be forthcoming, enabling the Office of the High Commissioner to continue to reorganize the team in charge of the individual communications received by the three relevant treaty bodies - the Human Rights Committee, the Committee against Torture and the Committee on the Elimination of Racial Discrimination. New staff had been hired and the team's working methods were being reviewed so as to enable it to assemble the Committee's jurisprudence in one comprehensive and coherent compilation.

5. She welcomed the fact that the Committee members had contributed to the preparations for the World Conference by participating in regional meetings and drawing up individual or collective documents. The document containing the Committee's contribution (A/CONF.189/PC.1/12) had been distributed to the inter-sessional working group and to the Preparatory Committee for reference purposes. It had been no easy task to prepare the draft declaration and programme of action of the World Conference (A/CONF.189/WG.1/3), as any document of that kind had to command a consensus. It had therefore been necessary to include the ideas obtaining the broadest support, while certain demands from regional groups had had to be eliminated. A document containing all the plans of action drawn up by the regional groups

and all the proposals for modifications and additions was nevertheless being prepared and would be submitted to the inter-sessional working group for its consideration at its forthcoming session in May 2001. The Committee could make a useful contribution to the preparation of that document by making targeted proposals to advance the review of the draft declaration and plan of action so that most of the work would be done before the June 2001 session of the Preparatory Committee.

6. The CHAIRMAN applauded the High Commissioner's efforts to encourage States to ratify the Convention and to make the declaration under article 14. He noted with satisfaction that the reorganization within the Office of the High Commissioner would facilitate consideration of communications by the Committee. He informed the High Commissioner that the Committee was currently drafting suggested changes that could be inserted in specific articles and sections of the draft declaration and plan of action. Those suggestions would be made available to the regional groups, the officers of the Conference and the High Commissioner as soon as they were ready. The coordinator of the contact group, Ms. McDougall, who was attending the inter-sessional working group's meetings, would present them and offer the Committee's services to the working group.

7. Mr. de GOUTTES said that, during the seminar on recourse procedures available to victims of racial discrimination, held in Geneva in February 2000, it had been recommended that States parties should make the declaration under article 14, as only 33 of them had done so. As that recommendation did not figure in the draft declaration and plan of action, the Committee's contact group had suggested to the inter-sessional working group that it appear in paragraph 140 of the draft. Furthermore, since it was to be anticipated that the volume of work of the communications team would increase and since it was necessary to engage the services of top-flight legal specialists, would it not be best for that team to become a permanent fixture of the Office of the High Commissioner?

8. Mrs. ROBINSON (High Commissioner for Human Rights) considered it entirely appropriate that the recommendation mentioned by Mr. de Gouttes should figure in the draft declaration and plan of action. It was also highly desirable that the communications team should become a permanent fixture of the Office of the High Commissioner and she was hopeful that in the forthcoming biennium the Office of the High Commissioner would create additional posts, making it possible to provide the treaty bodies with effective support, and not only when it came to consideration of communications. The decision depended on the Advisory Committee on Administrative and Budgetary Questions (ACABQ), and the High Commissioner therefore invited the Committee to encourage ACABQ members to support future proposals made by the United Nations Secretariat with a view to increasing the High Commissioner's staff, as those proposals would pave the way for the establishment of a permanent communications team.

9. Mr. ABOUL-NASR said that it would be desirable for the draft declaration and plan of action to refer to the problem of reservations, which sometimes cancelled out the effects of ratification of the Convention by the State party concerned and led to non-compliance with the provisions of article 9 of the Convention.

10. Mr. SHAHI paid tribute to the considerable work involved in drafting the document prepared by the Secretariat, which could not, of course, address all concerns. He was

nevertheless surprised that no regional group had raised the matter of the lessons to be learned from the interethnic conflicts of recent decades or referred to the Secretary-General's statements on the reinforcement of peacekeeping operations and the prevention of crimes against humanity.

11. Mr. PILLAI observed that many States had for some time been establishing national human rights commissions, often thanks to the assistance provided by the Office of the High Commissioner, and that those commissions had played a very active role in the preparations for the World Conference. He therefore wondered whether it would be possible for the draft declaration and plan of action to underscore the role of those commissions at the national and international levels and their cooperation with the Committee.

12. Mr. BOSSUYT asked the High Commissioner whether the absence of any reference to the Convention and the Committee in the Secretariat's draft was the result of indifference or reluctance. Could the High Commissioner advise the Committee on how to modify the draft on that point?

13. Mr. RECHETOV emphasized the crucial role to be played by the monitoring mechanism to be established after the World Conference. The body to be created to that end should benefit from the services of the Committee's experts and draw on the experience acquired by the Committee thanks to its consideration of reports and to its continuing dialogue with States parties.

14. Mrs. ROBINSON (High Commissioner for Human Rights) said that she was naturally in favour of enhancing the Committee's participation in the World Conference against Racism. She was pleased to announce that six members of the Committee would be invited to the World Conference, which was more than initially planned. She recalled that she regularly urged all States to ratify the Convention and encouraged all States parties to make the declaration under article 14 of the Convention and to submit their reports on time.

15. The World Conference's declaration and plan of action should of course contain an analysis of ethnic conflicts. A regional seminar of experts on the prevention of ethnic and racial conflicts in Africa had been held in October 2000 in Addis Ababa and had adopted interesting conclusions and recommendations. In its present state, the draft declaration and plan of action merely presented a framework, and it was not too late to include in it any other topic worth mentioning.

16. The national human rights commissions were playing a major role in preparations for the World Conference. National human rights institutions increasingly relied on the experience acquired by existing institutions to guide their activities, in particular in the fight against racism and racial discrimination. She mentioned General Recommendation No. XVII (1993) of the Committee, on the establishment of national institutions to facilitate implementation of the Convention, and recommended that the Committee pursue its reflection and make proposals on the matter.

17. With regard to the fact that the draft declaration and plan of action made little reference to the Convention and the Committee, she said that the text could be improved in the course of forthcoming meetings of the inter-sessional working group and the second Preparatory

Committee. With regard to the outcome of the World Conference, she trusted that a five-year review procedure would be established and that mechanisms to fight racism and racial discrimination would take account of the Committee's work and the experience it had acquired over 30 years.

18. The CHAIRMAN expressed deep gratitude to the High Commissioner for her support. He was pleased that a greater number of Committee members would be invited to take part in the World Conference and said that the Committee would spare no effort to ensure that the Conference resulted in a declaration and plan of action with a practical approach.

19. Mrs. Robinson withdrew.

The meeting was suspended at 10.50 a.m. and resumed at 11 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Fifteenth periodic report of Germany (CERD/C/338/Add.14) (continued)

20. At the invitation of the Chairman, the members of the delegation of Germany resumed their places at the Committee table.

21. The CHAIRMAN invited the German delegation to answer the questions asked by the Committee members at the previous meeting.

22. Mr. REIN (Germany), replying to a question concerning national minorities, said that when Germany had signed the Council of Europe's Framework Convention for the Protection of National Minorities, it had made a declaration on the area of application of the Convention in Germany to the effect that since the Framework Convention contained no definition of the notion of national minorities, it was up to the contracting parties to determine the groups to which the Convention would apply after ratification. National minorities in the Federal Republic of Germany were the Danes of German citizenship and the members of the Sorbian people with German citizenship. The Framework Convention would also be applied to members of the ethnic groups traditionally resident in Germany, namely the Frisons of German citizenship and the Sintis and Roma of German citizenship. According to the Federal Republic of Germany's interpretation, the ethnic groups belonging to the category of national minorities within the meaning of the Framework Convention lived in the country on a regular basis, had their own language, culture or religious identity and had German citizenship. The Jewish community in Germany did not see itself, with regard to the protection of minorities, as an independent ethnic group, but rather defined itself as a religious community in Germany. The groups that had arrived in the country after the Second World War were not considered national minorities within the meaning of the Framework Convention. Those groups, which differed from the majority of the population in language, culture and religion and were not considered national minorities, nevertheless benefited from the general protection of their rights, including the right to freedom of religion, the right to freedom of expression and assembly and the right to be free from discrimination. The groups considered to be national minorities also benefited from international protection. Indeed, the Framework Convention for the Protection of National

Minorities provided for a monitoring mechanism by virtue of which the States signatories presented reports which were considered by an advisory committee and could be visited by experts.

23. In 1996, the German and Danish authorities, together with those of the Land of Schleswig-Holstein, had founded the European Centre for Minority Issues, which was working, inter alia, on the situation in the former Yugoslavia, the Balkans and the Baltic States. The Centre's headquarters were in a German border town very close to Denmark.

24. The possibility of offering Islamic religious instruction in German schools commanded a broad social consensus, given the presence of about 3 million Muslims in the country. The Länder, which were responsible for education, nevertheless found it difficult to establish the content of that religious instruction in the absence of a contact point, since Islam had no organizational structures similar to those of the Christian churches. After the Berlin Higher Administrative Court had, on 4 November 1998, granted an Islamic association in Berlin the right to give religious instruction, other Muslim associations had contested that association's exclusive right to design religious instruction for Berlin's Muslims.

25. In answer to a question on people engaged in slave and forced labour under the Nazi regime, he said that legislation adopted on 12 August 2000 had established a federal foundation called "Remembrance, Responsibility and Future" to compensate the victims of forced labour. The Government and industry had each contributed half of the funds, the total amount of which had been set at 10 billion Deutsche marks. Initially somewhat reluctant to pay its share for fear that litigation in the United States would give rise to further claims, German industry, which had just obtained the guarantees it wanted, would now provide the necessary sum.

26. Mr. FUCHS (Germany), answering questions on police violence towards foreigners in particular, said that any recourse to excessive force was investigated and penalized by disciplinary measures or court proceedings. The police could also be the target of violent acts, and in 2000 eight police officers had been killed in the line of duty. However, in order to ensure that police officers performed their tasks without violence, training programmes were given and existing programmes constantly reviewed and improved.

27. With regard to the forced repatriation of foreigners, any such repatriation should in principle be carried out according to the rules, and all aspects, in particular medical considerations, taken into account. Training programmes for those in charge were far-reaching and emphasized respect for human dignity, the values of tolerance and social and psychological relations with foreigners. For several years now, there had been an acknowledged need to recruit more persons from foreign backgrounds into the police forces. In 1996, there had been 239 police officers of foreign origin. The delegation had no more recent statistics on the matter, but apparently a growing number of people from foreign backgrounds were entering the police force. To become a police official, those people had to have German citizenship, had to have resided in the country for a certain number of years and had to have a good command of German. Generally speaking, police officers were neither more nor less xenophobic than the population as a whole but, given their role in society, their conduct had to be exemplary, even in situations of stress, and the German authorities were therefore establishing structures to help police officers react appropriately, even in the most difficult of situations.

28. Mr. HABERLAND (Germany) said that the new Nationality Act, which had entered into force in January 2000, greatly facilitated the acquisition of nationality and naturalization and would enhance integration of foreigners. The continuing principle of origin, according to which only children with at least one German parent acquired German nationality, was supplemented by the principle of the law of place of birth (jus soli), according to which children born in Germany to foreign parents acquired German nationality at birth if one parent had been legally resident in Germany for at least eight years and had had a right to reside or an unlimited residence permit for at least three years. The number of children who had become naturalized Germans had increased greatly in 1999 (among them, 3,000 Turks). The conditions for naturalization had also been made more flexible for children under 10 born before the new Act had entered into force. That measure had not, however, been as successful as the authorities had anticipated, perhaps because the parents had to request naturalization within a certain time and the fee was relatively high. The deadline had therefore been extended and the fee decreased. The condition that one of the parents must have legally resided in Germany for at least eight years or have had an unlimited residence permit for at least three years had been set because many people had residence permits that were repeatedly renewed.

29. The 1993 amendments to the Asylum Act and the adoption of new article 16 of the Basic Law, mentioned in paragraph 79 of Germany's previous report (CERD/C/299/Add.5), had been decided on after Germany had been confronted with a massive influx of refugees from the former Yugoslavia and, at the same time, had observed that a number of people, from Romania and Bulgaria in particular, wished to come to Germany for economic reasons and not for reasons arising from any form of political persecution. Asylum proceedings were relatively rapid in Germany and lasted on average three months, but they could be followed by an appeal to the courts which could take much longer. It was also true that not all asylum-seekers whose request was turned down were sent back to their country, for several reasons: the persons concerned might not have any papers or might be in unclear situations, their country of origin might refuse to take them back or they might have started a family in Germany in the meantime, in which case they could be granted a residence permit for humanitarian reasons.

30. Lastly, the Länder carried out many projects with a view to promoting the cultural activities of minorities.

31. Mr. RADZIWILL (Germany) said that according to a survey carried out in 1999, two thirds of foreign households settled in Germany were satisfied or very satisfied with their housing conditions and only 4 per cent were very dissatisfied. Foreign groups were concentrated in certain neighbourhoods partly for economic reasons but above all because immigrants preferred to live with people of the same culture. The aim of the German Government was to take all necessary measures to improve housing, while allowing everyone living in the country to choose his or her place of residence. In that respect, the federal Government and the Länder had launched a programme to supplement existing urban projects.

32. Ms. ZEITZ (Germany) said that under the new regulations that had entered into force after the publication of Germany's report, asylum-seekers had access to the labour market. In addition, any victim of an act of violence, whether German or foreign, was entitled to seek

redress before the courts. Indeed, 10.9 million Deutsche marks had been set aside in the 2001 State budget to compensate the victims of acts of violence committed by extreme right-wing movements.

33. The federal Government had considered it necessary to draft two parallel pieces of legislation with regard to the fight against discrimination, one concerning civil rights, the other concerning labour law. That mechanism would guarantee that the fight against discrimination would be effective in terms of access to jobs, social benefits and training. The legislation would be applied within three years.

34. Mr. BLATH (Germany) said that there had been 59 per cent more wrongful acts connected with xenophobia in 2000 than in 1999. There were several reasons for the increase, including imitation among the different extreme right-wing groups and the public's heightened awareness of the need to denounce xenophobic activities, which probably also explained why the number of complaints had increased. It was difficult to forecast trends in xenophobic criminal activity in the absence of any reliable statistical models.

35. Mr. HERMANN (Germany) said that it was extremely difficult to ban a political party. Under the Basic Law, a party could not be banned unless its aim was to disrupt internal democracy. When a party was nevertheless banned, it was immediately dissolved and its assets could be seized and donated to charity. Only twice had a political party been banned in Germany: a neo-Nazi party in 1952, and the Communist party in 1959. In January 2001, the federal Government had asked the federal constitutional court, with the backing of Parliament, to ban the far right NPD party. That reflected a very broad consensus among the German political class in favour of banning a party that encouraged populist collectivism, whose programme was racist and anti-Semitic, which was connected to national socialism and whose activities were characterized by violence.

36. Mr. STOLTENBERG (Germany) said that the German human rights institute founded in Berlin aimed to disseminate information on human rights on the Internet, to conduct research in the field of human rights, in particular concerning prevention and repression strategies, to provide advice on human rights, especially to political parties, to cooperate with the National Coordination Centre for Human Rights in defining programmes aimed at government officials in charge of maintaining order and teachers, and to promote dialogue and cooperation between NGOs and public bodies. The institute was made up of representatives of the federal Government, Parliament, the media, NGOs and academic circles.

37. The German delegation did not have detailed information on the federal Government's intention concerning the possibility of making the declaration under article 14 of the Convention, although it might well do so since the grounds for the reservations made when various international human rights treaties had been ratified were to be reconsidered.

38. Mr. LEWALTER (Germany) said that foreigners had made a substantial contribution to Germany's prosperity after the Second World War and that most of the German population was now convinced, given the ongoing process of globalization, that it would have to live in harmony with them.

39. A member of the Committee had asked why racist movements were systematically considered to belong to the extreme right-wing. The fact was that the far right was hostile to various categories of people it considered "weak", including, for example, foreigners, but also handicapped people. It was therefore not just racist but purely and simply hostile to the very notion of human dignity.

40. In answer to the questions raised by Mr. Aboul-Nasr, he said, in connection with the fight against AIDS, that a German company was getting ready to market a drug intended to prevent HIV transmission from mother to child and that it had stated it would provide the drug free of charge for five years to developing countries. Other companies had also said they would lower prices for AIDS medication within the framework of the WHO appeal. With regard to the elimination of anti-personnel landmines, maps indicating where the mines had been laid had been made available to the countries concerned, as had systems aimed at detecting their presence.

41. Mr. ABOUL-NASR expressed satisfaction at the quality and accuracy of the German delegation's replies to the questions of Committee members. With particular reference to the issue of landmines, it did not suffice to establish and communicate maps of mined areas to solve the problem: cooperation efforts at mine clearance were also required.

42. Mr. DIACONU said that there was no universally accepted definition of what constituted a minority and that it was therefore up to each State party to the Convention to designate and name the minorities it recognized on its territory. Certain European States recognized no national minorities, while others, such as Germany, only recognized certain minorities. The decision was obviously eminently political and within the competence of each sovereign State, but the Committee's mandate was nevertheless to consider the question at least from the human rights point of view. For the Committee, all ethnic groups were equal, whether they had been in the country for 10 years or for centuries. Germany had granted minority status to the Danish minority in 1955, then to the Sorbian people after the reunification of Germany, and recently to the Roma. It nevertheless had to make progress in other respects in that field.

43. Mr. RECHETOV thanked the German delegation for its prompt replies to the many questions it had been asked. Referring to the three criteria applied by the German Government in recognizing that a group of people had minority status, i.e. history, citizenship and the practice of other European countries, he said that the last two did not seem to him to be relevant, while the historical criterion, for its part, might be seriously undermined by recent events justifying prompt recognition of national minority status for certain communities of people who had not been living in the country for long.

44. Mr. THORNBERRY expressed surprise that certain communities of people had not been recognized as national minorities in Germany. He nevertheless thought he understood why that status had not been granted to the German Jewish community, at the request of the latter, which he thought was justified even if the community's position might change over time. In international law, the notion of minority was very close to that of autonomy. Although the human rights treaty bodies did not share the Governments' point of view on the matter, they were nevertheless all interested in the express desire of the communities to be or not to be recognized as national minorities.

45. Mr. DE GOUTTES asked whether the recently established German human rights institute could be considered a true national or federal human rights commission or institution, within the meaning of the principles applicable to national human rights institutions, or Paris Principles. For a long time the German Government had been visibly reluctant to set up a national commission for the promotion and protection of human rights and even to create a post of human rights ombudsman at the federal level. Could the delegation explain why that was so?

46. Mr. SHAHI said he had been informed that the murder of trade union members and public officials who had apparently been stigmatized as enemies of the nation had been advocated on German Internet sites, reportedly with names, addresses and photographs. He asked to what extent German legislation had provided penalties for that kind of activity and whether incitement to murder on the Internet was in any way prohibited.

47. Mr. YUTZIS inquired how the German authorities explained the increase in xenophobic and anti-Semitic crimes committed in the country. There had apparently been 1,100 cases of the kind in 2000, far exceeding those in 1996, 1997 and 1998. He also asked the German delegation to specify the nature of the obstacles to the establishment of a national institution for the promotion and protection of human rights and to indicate on the basis of what criteria the members of such an institution would be chosen.

48. Mr. ABOUL-NASR said that he personally was satisfied with the delegation's reply to the question regarding recognition of certain communities as national minorities. The recognition of the Jewish community as a national minority was an extremely difficult and sensitive issue, as the Jewish people themselves did not agree on the definition of the word "Jewish". It was therefore important to take account of the point of view expressed by a given community on whether or not it wished to be designated as a national minority.

49. Mr. LEWALTER (Germany) said that the German Government was determined to eliminate racism and intolerance in the country and to ensure respect for international human rights standards for all foreigners, whether or not they had been defined as national minorities. The German Government was altogether entitled to consider the question of recognition of Jews as a national minority. With regard to the messages of incitement to murder posted on the Internet, it was the task of prosecutors to bring the authors of those messages before the courts, but Germany and many other countries had encountered legal and technical difficulties in penalizing activities conducted over the Internet. Lastly, the German Government was not at present in a position to explain the reasons for the increase in racist and/or xenophobic crimes in Germany, but scientific studies were being carried out in order to enhance understanding of the phenomenon.

50. Mr. STOLTENBERG (Germany), replying to the questions concerning the establishment of a national institution for the promotion of human rights, recalled that the Convention left it entirely up to the States parties to choose the instruments to safeguard and promote human rights that they considered most appropriate. The German Government considered, in that respect, that a national agency, be it a commission or ombudsman, would not be able to deal with all infringements of human rights. For that reason, Germany had established several bodies of a variety of natures to fight xenophobia and racial discrimination, for it preferred to share the workload arising from such conduct among different institutions.

51. Mr. BOSSUYT (Country Rapporteur) expressed satisfaction at the fruitful dialogue established between the Committee members and the German delegation and at the candour with which the delegation had answered questions. It was to the delegation's credit that it had acknowledged the existence of problems of racism and even the resurgence in racist and xenophobic acts, because the State party could not tackle the problem if it denied its existence. In that regard, the German authorities had to redouble their efforts, in particular by conducting studies and in-depth surveys of the true causes of that increasingly widespread phenomenon and of the most appropriate and effective means of fighting it.

52. With regard to the question of the integration of minorities, Germany made a distinction between integration and assimilation. For Germany, the promotion of integration meant making an effort to facilitate the harmonious participation in society of persons from foreign backgrounds without having those persons deny their cultural specificities. According to the Committee, protecting minorities meant, rather, making an effort to enable people from foreign backgrounds to preserve their identity and their cultural specificities.

53. The CHAIRMAN expressed satisfaction at the open and constructive dialogue established with the German delegation and at the detailed nature of the answers given. He declared that the Committee had completed its consideration of the fifteenth periodic report of Germany.

The meeting rose at 12.55 p.m.

**UNITED NATIONS**

# CERD

**International Convention on the Elimination of all Forms of Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1451st MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 14 March 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

later: Mr. FALL
(Vice-Chairman)

later: Mr. SHERIFIS
(Chairman)

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Ninth, tenth and eleventh periodic reports of the Sudan

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (continued)

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GE.01-41008 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Ninth, tenth and eleventh periodic reports of the Sudan

(CERD/C/334/Add.2 and HRI/CORE/1/Add.99/Rev.1)

1. At the invitation of the Chairman, Mr. Ibrahim, Mr. Siddig, Mr. Abdalla, Mr. Abdul Rahman and Mr. Leonardo took places at the Committee table.

2. Mr. IBRAHIM (Sudan) said that the elimination of racial discrimination called for constant vigilance, action and cooperation by all nations, organizations and individuals, through a comprehensive approach encompassing appropriate legislative and educational measures. Exchanges of experience were essential to ensure that one nation could learn from another's mistakes. When he had taken office as Permanent Representative to the United Nations at Geneva in 1997, he had acknowledged the existence of human rights violations in the Sudan and stressed his commitment to seeking international assistance in resolving them. As of then the Government of the Sudan had entered into a new era of dialogue and cooperation, culminating in the adoption, with support inter alia from the European Union, of Commission on Human Rights resolution 1999/15, which had focused on some of the positive developments in Sudan, including the new Constitution of 1998, while expressing concern about the situation of internally displaced people on account of the civil war. At its fifty-sixth session the Commission on Human Rights had adopted a resolution along similar lines.

3. Observing that the new United States Government had recently announced that high priority would be given to the restoration of peace in the Sudan, he said that the Sudanese Government looked forward to a positive dialogue with the international community, in a serious effort to settle the civil war, which had harmed the country's image and population and the region as a whole. It was generally recognized that the isolation of the Sudan in the past had not been conducive to a peaceful settlement of the conflict. It was to be hoped that the re-establishment of dialogue with the rebel forces would result in the fulfilment of the 1997 Peace Agreement, thereby offering the people of southern Sudan the opportunity to decide on the right to self-determination, four years after the ceasefire. Irrespective of whether they decided to remain part of the federal system or become a separate State, peace was the paramount consideration.

4. Mr. SIDDIG (Sudan) said that the new Constitution currently in force, adopted by Parliament and by public referendum in 1998, provided for the respect and enjoyment of human rights by all people in the Sudan, without discrimination on grounds of race, ethnic origin, religion or language. Such rights were protected by the new Constitutional Court and could not be derogated from even during a state of emergency. Sudan was party to the Vienna Convention on the Law of Treaties and international human rights instruments accordingly took precedence over domestic law in the event of conflict.

5. The Government had used education as a means of creating a society free of racial prejudices. Most intermediate and secondary schools were boarding schools, where students from different parts of the country lived together and learned to understand one another's culture and way of life. Educational provision had expanded, and 26 new universities had been opened in the previous 12 years. Students from underdeveloped states given preference in enrolment.

6. To encourage social and ethnic integration between different tribes, the Government had successfully implemented a strategic housing plan enabling inhabitants from different parts of the country to live together in residential areas. Major agricultural and industrial projects had also helped to enhance social homogeneity. Public services including health and education were provided to all people on an equal basis without discrimination. The right to work was guaranteed according to qualifications. The poor and underprivileged were catered for by the Zakat (almsgiving) fund, whereunder the rich voluntarily contributed 2.5 per cent of their annual income which was then distributed equitably to the needy through its regional offices.

7. In order to preserve the ethnic, religious, cultural and linguistic characteristics of different groups in the Sudan, a federal system of government had been introduced in 1995, dividing the country into 26 states. There was a general misconception about the situation in the Sudan in general and about southern Sudan in particular, perpetuated by the international media, which portrayed the country as divided into the Arab-Muslim north and the African-Christian and animist south. Arab traders and shepherds had come to the present-day Sudan at the end of the seventh century and had intermingled with local tribes. The term "Sudan" was the Arabic word for blacks. In terms of race, the most accurate description for the current population of the Sudan was Arabized Africans.

8. According to the 1993 census 75 per cent of the population lived in northern Sudan, where 95 per cent of the inhabitants were Muslim (Sunni). Nineteen per cent of the inhabitants of southern Sudan were Muslims, 17 per cent were Christians and the remainder followed traditional animist religions. Christians therefore accounted for between 5 and 6 per cent of the overall population. There were around 572 tribes with more than 120 distinct languages in the Sudan. Arabic was the lingua franca for most of the population, and for official and commercial purposes.

9. Six of the Sudan's nine neighbouring countries had experienced armed conflicts. The armed conflict which had started in 1983 led by the Sudan People's Liberation Army Movement (SPLA/M), continued despite the Government's efforts to bring about a lasting political settlement. The conflict had disrupted the traditional way of life in the southern states, and traditional chiefs and elders had fled. The situation had been compounded by illicit trafficking of firearms from neighbouring countries. Another serious repercussion of the war was the rise in the abduction of women and children between the tribes of southern Sudan, and between them and neighbouring tribes in the border area between the southern states and southern Kordofan and Darfur. It was a fairly common practice in Africa, especially in times of war. In the past the tribal chiefs had acted as mediators to release those abducted. That no longer being possible, the Government had established the Committee on Elimination of Abduction of Women and Children (CEAWC), which had been instrumental in identifying hundreds of the abducted and reuniting them with their families.

10. Reciprocal abduction between southern tribes was very common. SPLA/M was largely responsible for abduction in the border areas between the north and south of the country as well as for perpetuating the reciprocal abduction of women and children between the Messeiriyya and the Dinka tribes. The Government was determined to eliminate the problem of abduction, despite the practical difficulties it faced: the vastness and remoteness of the area involved; its inaccessibility during the rainy season; the fact that SPLA/M led the guerrilla warfare there. It was trying to tackle the problem through education and information campaigns, including radio and television programmes targeted at particular areas.

11. There had been awareness about gender-related issues in the Sudan since its independence in 1956. Women were active in all walks of life, including more recently in conflict resolution. According to the 1993 census 26.5 per cent of the workforce was female and women's representation in Parliament varied from 6.5 to 11 per cent. Women dominated small-scale farming and production, and were accorded loans to finance such activities by the Sudanese Savings Bank for Social Development, which had 31 branches throughout the country. Basic education was compulsory and free of charge and special attention was paid to girl children and displaced children. Between 1989 and 1999 the intake of girls in basic education had increased by 95.5 per cent. About 70 per cent of basic education teachers were women. Three State bodies - the Department of Women Affairs and the Ministry of Social Planning, the National Council for Child Welfare and the Adviser to the President on Women and Child Affairs - had been established. Around 80 per cent of Sudanese women had access to primary health care, and the use of contraceptives had increased from 9.9 per cent in 1990 to 15 per cent in 1999. Rural training projects, including training for midwives, were organized with the assistance of international organizations.

12. In conclusion, he said the new Constitution acknowledged that the country was multilingual, multireligious and multicultural. That did entail certain problems but the Government was working to resolve them. The Committee's advice and recommendations were therefore necessary and would be carefully followed up.

13. Ms. JANUARY BARDILL (Country Rapporteur) welcomed the delegation's constructive approach to its dialogue with the Committee and recognition of the violations committed. It was virtually impossible to separate questions of ethnicity from the other problems affecting the Sudan. The delay in submitting the periodic reports having been justified by the lack of qualified personnel, she drew attention to the Committee's General Recommendation X concerning technical assistance. While she welcomed the detailed information provided in the periodic report, some reference should have been made to the concerns expressed by the Committee in connection with Sudan's eighth periodic report. They related to the continuing conflict, despite the ceasefire, the abduction of thousands of people, mostly women and children, and the need for specific measures to protect internally displaced communities, in compliance with the Guiding Principles on Internal Displacement prepared by the Special Representative of the Secretary-General on internally displaced persons.

14. With respect to article 1 of the Convention, the report failed to provide precise demographic data to illustrate the multiracial, multireligious and multicultural nature of society.

Such data not only served to provide an accurate picture of the different social and ethnic groups, but would also be found useful by the Government in planning corrective action or developing programmes for groups requiring special protection or attention.

15. Positive aspects with respect to article 2 of the Convention included the enshrinement of the principle of non-discrimination in the new Constitution (art. 21), the recognition of Sudan's cultural diversity by that instrument and in the Khartoum Peace Agreement, the adoption of a common-law system under which treaty provisions became a part of domestic law and the proposed amendment of the Criminal Act of 1991 in order to make racial discrimination an offence. Nevertheless, notwithstanding those apparent safeguards, persistent human rights violations were reported by various international bodies. She would welcome more information on that matter and also on why, despite the 1997 Peace Agreement, the civil war continued. The complex nature of the conflict suggested that it could not simply be reduced to racial, ethnic and religious categories within the context of obligations under the Convention. The perception that it was between the Islamic-Arab North and the African Christian animist South persisted.

16. In his report to the fifty-sixth session of the Commission on Human Rights, the Special Rapporteur on the situation of human rights in the Sudan had expressed shock at the disregard of international humanitarian standards by both warring parties, which inflicted unlimited suffering and injustice on the civilian population, and had condemned the indiscriminate bombing of civilians in the Nuba Mountains and the Upper Nile Zone and the forced displacement of civilians to allow the military to take control of the oil industry operations. To what extent had the discovery of oil in the Upper Nile Zone escalated the conflict? He had also condemned the reluctance to take action against the reportedly continuing raids against civilians, especially in Bahr-el-Ghazal, in which women and children were regularly abducted for forced labour. She sought the delegation's comments on the fact that, despite the creation of CEAWC, the "murahelleen" allegedly continued to raid certain parts of the country, resulting in civilian deaths and abductions, and on the allegations that the oil issue in the Western Upper Nile lay at the heart of the conflict and had exacerbated the war. Such acts amounted to gross human rights violations that transcended ethnic and religious discrimination. The ethnic dimensions were doubtless an offshoot of the political process and should therefore be monitored. There were numerous other allegations of human rights abuses reported by Amnesty International - the point was that minority groups were caught in the crossfire, although they might not have been specifically targeted.

17. Regarding article 4 of the Convention, some government officials were alleged to have resorted to hate speech promoting the war as a jihad. The recruitment of young boys by government and SPLA/M forces alike had also been condemned. She wondered to what extent religious orthodoxy was used to divide and rule. She would welcome the delegation's comments on allegations of religion-based discrimination, such as harassment of Christians, the designation of conversion from Islam as a capital crime, the burning of Christian material, and the army's recent occupation of a Catholic printing press.

18. Concerning article 5, the Committee appreciated the Sudanese Government's increasing cooperation with international, regional and local human rights organizations in fulfilment of its obligation to promote understanding of human rights. While the Constitution was a key instrument that protected the rights of all Sudanese citizens, the Committee was concerned about

allegations of discriminatory treatment before the courts and other law and order organs. Four leaders of the Ansar Order of Islam had reportedly been arrested for protesting against the detention of Ansar leaders. Also, Catholic priests who had been tortured following a charge of planting time bombs in Khartoum in 1999 had been denied pre-trial access to their lawyers and had no possibility of appeal. The dearth of official inquiries into such atrocities was an indictment of the authorities' reluctance to use legal instruments for that purpose. The Committee was also disturbed by the law governing nationality, which made it possible for a child born of non-Sudanese parents to be stateless. Non-compliance with articles 5 and 6 of the Convention prompted the Committee to conclude that the rights of all minority ethnic, cultural and religious groups were not protected. The real test was not the existence of constitutional provisions but the degree to which people considered that their rights were protected.

19. There was scant evidence of education in the values of ethnic, cultural and religious tolerance. Admittedly, a state of war was not conducive to education, but the Committee needed to know to what extent education was geared towards creating social harmony. On the subject of asylum-seekers and refugees, the Sudan's "first-country-of-asylum" policy was in breach of article 2 (1) (a) of the Convention in that it excluded certain groups on the basis of national origin. The same was true of the Sudan's reported refusal to grant asylum to Chadian nationals, if that was indeed the case, although they were covered by the aforementioned policy. She also sought the delegation's comments on the argument that the Government's refusal to grant Arab nationals asylum status led, albeit inadvertently, to denial of potential rights and protection against extradition.

20. In conclusion, she welcomed the peace initiatives taken, the State party's gestures in favour of self-determination for the south of the country, the new Constitution and its related instruments, and the Government's admission that certain violations needed to be addressed. Yet the Committee was concerned at the many remaining challenges, which ultimately concerned human lives. If major improvements were not forthcoming, all of humanity would eventually be forced to admit that it had stood idly by while the Sudanese suffered. She offered her comments in a spirit of Africanism and respect for human rights and expressed the hope that, through cooperation, solutions to the country's problems would be found.

21. Mr. ABOUL-NASR, speaking on a point of order, reminded members that the Committee had earlier decided that members must furnish the source of any accusations or negative information relating to States parties. While not calling the credibility of such information into question, as an African he was sensitive to the frequently heard accusations of things Arab or Muslim.

22. Mr. FALL, speaking on a point of order, said that that issue should be discussed in a closed meeting and not only in the context of the Sudan's report.

23. The CHAIRMAN, agreed that that topic should be discussed subsequently and not in the time allotted for discussion of the Sudan's report.

24. Ms. McDOUGALL endorsed the Country Rapporteur's analysis. She welcomed the enactment of the new Constitution and its important anti-discrimination provisions. It would be interesting to know more about the actual implementation of the legal framework and its impact

on people's lives. Also, whereas it had been stated in the report that 96 per cent of eligible voters had participated in the referendum on the Constitution, it was important to know whether it had been held in all regions, including those affected by armed conflict.

25. While her comments might appear superficially to deal largely with religious freedom, she pointed out religion and ethnicity often overlapped in the Sudan. Although there were often misperceptions about societies, the war appeared to be racially inspired. Her sources, mainly the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan and the annual reports of the United States Department of State and Human Rights Watch, implied that the military operations in the south had racial overtones, as did the clearing of areas adjoining oilfields and inhabited by minority groups, causing as they did mass forced displacement, in which well-substantiated reports had implicated the Government. The target of one such operation was Rueng county, which had seen its population reduced by 60 per cent, with loss of lives, destruction of churches and homes and replacement of the names of some local villages by Arabic ones.

26. Could the delegation provide an example of a manifestation of religious conversion that adversely affected public safety under the Criminal Act, as stated in paragraph 107 of the report, and say whether that applied to conversion from religions other than Islam? There had also been reports of local officials harassing Christians and destroying their churches. She would like to know how many churches had been destroyed in military operations and as a result of clearing land for oil prospecting. What proportion of the 800 schools built between 1989 and 1997 had been constructed in the various regions? Also, what percentage of students attending those schools identified themselves as Arab or Muslim and how many identified themselves otherwise?

27. In closing, she welcomed the incorporation in essence of the 1997 Khartoum Peace Agreement into the Constitution, guaranteeing equal participation of the various ethnic groups in government institutions. She would like to know what percentage of the different groups was represented in the Council of Ministers, the Federal Legislative Assembly, the Supreme Court and the National Elections Commission.

28. Mr. FALL said that, in view of the Sudan's special cultural, ethnic and religious situation, it would be interesting to know the breakdown of ethnic groups in the country and to see statistics on the representation of the various groups in the public administration. He also wished to know what follow-up had been given to the statement made to the Committee in 1999 by the then representative of the Sudan that the State party recognized the right of the people in the south of the country to self-determination, as recorded in the Committee's decision 5 (54), paragraph 10, on the Sudan. Also, what measures were in place to promote native languages other than Arabic? He would be grateful for information concerning the composition and activities of the legislative organs, referred to in paragraph 48 (e) of the report, established to monitor performance of the executive authority of the federal and State human rights committees, and also concerning the number of cases brought before the courts and the rulings handed down.

29. Mr. Fall, Vice-Chairman, took the Chair.

30. Mr. VALENCIA RODRIGUEZ said that the report provided an interesting update on legislation to eliminate all forms of racism, including the 1998 Constitution. He noted the Sudan's particular demographic and geographical features and the multiracial, multi-ethnic and multireligious character of Sudanese society. He asked whether the human rights safeguards listed in paragraph 48 of the report had been invoked in cases involving racial or ethnic discrimination and, if so, in what manner. While all Sudanese could seek redress in the courts if they considered their human rights to have been violated by senior officials or by the public administration, what action could be taken against a discriminatory act committed by a private individual?

31. Turning to article 5 of the Convention, he asked how the legislation protecting civil and political rights and economic, social and cultural rights was actually enforced and with what results. Personal matters were understandably governed by two different laws for Muslims and non-Muslims, but he recommended that the Government might consider unifying them to ensure that all inhabitants were subject to a single body of laws, thus avoiding the possibility of different treatment. On the assumption that the Independent Press Council was not a press control or censure body, it would be interesting to learn what its functions were and whether it had ever intervened in a case of racial discrimination. Turning to paragraph 124 of the report, he asked whether the Political Associations Act prohibited organizations that promoted racial hatred, disseminated theories of racial superiority or incited tribal or ethnic discord.

32. Noting the importance attached to education, which he endorsed, he inquired whether courses were offered on the objectives of the Convention and, if so, what the results had been. According to paragraph 195, the Arabic language was the only medium of communication between the different racial groups. He gathered that that was due to the many languages and dialects spoken in the Sudan. Were members of tribes and other ethnic groups allowed to speak their own languages, and were those languages taught at the schools in areas where those persons lived?

33. Referring to paragraph 197 of the report, he asked whether the obligations stemming from the Convention took precedence over obligations under national law. He was pleased to note that the Criminal Act was to be amended to include a definition of racial discrimination which for the most part fulfilled the requirements under the Convention, and asked whether the amendment had been approved in the National Assembly. Clearly, one of the Sudan's most serious problems was that of internally displaced persons. The Sudanese Government must address that problem through not only national measures but also international cooperation.

34. He appreciated the information provided in the report on allegations of slavery and took note that a number of persons who had visited the country had found that there was no basis for such assertions. But a number of non-governmental organizations (NGOs), including Christian Solidarity Worldwide, maintained that slavery persisted. Reports on the abduction of women and children in the context of armed conflicts between ethnic groups (para. 225) gave cause for concern, and the Sudanese Government must intensify its efforts to prevent such practices. The proposals made by the Committee for the Eradication of Abduction of Women and Children (CEAWC) to combat that phenomenon (para. 245) called for a concerted political effort at national level and international cooperation.

35. Mr. de GOUTTES drew attention to the Committee's decision 5 (54) on the Sudan taken in March 1999 under its early warning and urgent action procedures. He was pleased to learn from the eleventh periodic report that the principle of non-discrimination had been incorporated into the Sudanese Constitution and that the Sudan had amended its penal legislation in 1998 to bring it into conformity with the Convention by inserting a provision punishing incitement to racial discrimination and racist acts, the provision of assistance to racist activities and the financing thereof. How was it planned to implement that new legislation? He was also pleased to learn that any treaty to which the Sudan was a party became part of domestic law and acquired the same force as national legislation (para. 197). Did the Convention take precedence over the Constitution and national legislation? Could it be invoked in court?

36. Turning to subjects of concern, he said that they were basically the same as those expressed in decision 5 (54), which had referred to summary executions, malicious destruction of civilian property, the diversion of relief supplies, the forcible recruitment of child soldiers, bombardment of non-military targets and the enslavement of women and children abducted by armed militias, especially in southern Sudan and in Darfur. Although paragraphs 204 et seq. addressed those problems, the report attributed responsibility to the rebel forces of the SPLA/M and refuted the allegations of cases of enslavement in the Sudan, saying that such claims were the work of anti-Sudanese and anti-Islamic propaganda (para. 222). Yet the continuing violations of human rights had been confirmed by many sources, including the United Nations Special Rapporteur, NGO Christian Solidarity Worldwide and Amnesty International. According to Amnesty International figures, nearly 4.5 million persons had been displaced internally and more than 350,000 Sudanese had fled the country; more than 2 million persons had been displaced by the war in the south and were living in camps around Khartoum. The Amnesty International report also stated that the authorities had given speeches inciting hatred and calling for a holy war. Could the Sudanese delegation comment on those allegations?

37. What measures did the Sudanese Government contemplate to ensure that legislation on the right to asylum was applied to all persons, irrespective of national origin, and not just nationals of neighbouring countries? What measures were taken to protect Ethiopian refugees in northern Sudan, prevent abductions of women and children between tribes and facilitate the return of abducted persons? Would legislation be amended to prohibit the practice of slavery? What was planned to open all areas of the country to humanitarian assistance and NGOs so as to prevent further famine and protect the population from displacements associated with oil production? To what extent did the local population benefit from the profits derived from oil production in its own region?

38. Mr. TANG Chengyuan said that the periodic report had acknowledged existing problems and proposed solutions. He had read the report by Christian Solidarity Worldwide, which had cited serious cases of abductions of women and children. However, the periodic report asserted that such abductions were primarily the work of tribal militias, abductions having been common in disputes over water for centuries. Hence, the present situation reflected a long-standing historical practice. The periodic report stated that, in order to fight the SPLA/M, the former Government had set up armed tribal militias, which had been active in illegal activities in the name of the Government. The Sudanese delegation had further clarified the question. The NGOs maintained that the militias were supported by the present Government, but the country report explained that they had been backed by the former Government, whereas the present

Government was working to bring those groups under control. Paragraph 234 stressed that the militias would be absorbed into the Popular Defence Forces. Thus, the Government had adopted a proactive attitude to addressing the problem.

39. Were penal procedures contemplated to deal with cases of persons who had abducted women and children in the past? Had measures been adopted to ensure that the militias would not cause any more trouble in the future? Had all the women and children been returned home? Had they received any compensation?

40. Mr. DIACONU said that for the Sudan, a country with so many ethnic groups and languages, implementation of the Convention was particularly important. Referring first to paragraph 28, he asked how competence was distributed between the federal government and the states in the area of human rights, in particular with regard to the police, the investigating authorities and the courts. He was pleased that the inhabitants of southern Sudan were permitted to be active in federal institutions, that the principle of non-discrimination could not be suspended, even in an emergency, and that a dispute body had been created for challenging administrative acts in court. He welcomed the intention to hold a referendum (para.29) which he hoped would help resolve some of the Sudan's current problems.

41. He disagreed with Sudan's interpretation of the Vienna Convention on the Law of Treaties as giving obligations arising from international agreements precedence over other obligations arising from national laws (para. 197). That Convention merely required States to implement conventions and provided that a State could not invoke national legislation to avoid implementing a convention.

42. He asked whether the 1998 draft Criminal (Amendment) Act referred to in paragraph 197 had yet to be adopted. He noted that, although a large part of the definition had been taken from the Convention, it failed to say that any distinction based on race constituted a violation of law. The reference to the dissemination of ideas based on racial discrimination quoted at the end of that amendment had nothing to do with the actual definition of that offence and should have been placed in the part of the report concerning compliance with article 4 of the Convention. Most of article 4 was covered, apart from its requirement in subparagraph (b) to prohibit organizations that promoted racial discrimination.

43. The Sudanese Government must direct the bulk of its efforts towards putting a halt to the abduction of women and children. He had read the explanation that the abductions had to do with conflicts between tribes in search of pasture and water and that such practices had been going on for centuries, but pointed out that there were good traditions and bad ones. If a tradition violated human rights, it must be stopped. Had those responsible for the attack in 1987 on the Rizeigat, the killings of Dinka at El Dein and the abduction of more than 5,000 Dinka children (para. 231) been brought to justice? That would be a case for the International Criminal Court.

44. He noted that displacements in connection with oil production mainly affected minority groups. In other States, such persons were paid compensation for the expropriation of their property and were given housing. Did Western oil companies take part in the displacement of minorities? If so, they must also be held accountable.

45. Mr. SHAHI said that human rights were the first casualty of armed conflicts. He was particularly concerned about the abduction of women and children, a situation he had witnessed in his own country. Although it might be an old practice, it was the Sudanese Government's responsibility to put an end to such abuses.

46. It was encouraging that the Government had responded favourably to the offer by the United States Secretary of State to promote the peace process and had acknowledged that the Sudan was a multilingual, multicultural and multireligious country. The most important development had been the decision to give self-determination to the people of southern Sudan.

47. Mr. THORNBERRY asked whether training was offered for the police and military in remote areas to make it clear that slavery and abduction were punishable crimes.

48. The periodic report had made a number of references to the Sudan's great ethnic diversity. Was that a source of pride, or was it regarded as a matter of concern? Would the Sudanese Government accept independent investigations of the persistent allegations of slavery? What assistance was given to persons displaced in connection with oil production?

49. Mr. Sherifis resumed the Chair.

50. Mr. YUTZIS said that freedom of religion was a subject which fell within the Committee's competence whenever an ethnic group was involved. Referring to paragraph 101, he asked whether the right to manifest one's religion or creed by way of rites or ceremonies transcended the private sphere. Could persons of any ethnic group or religion hold public processions, publish articles in the press, publish and circulate material publicly and make public announcements? He welcomed the statement in paragraph 106 and inquired which ethnic groups and religions were represented in public office at national level, for example as ministers and judges, and what percentages were involved.

51. According to paragraph 118 of the report, the Press and Publication Act prohibited the exposure of journalists to "illegitimate pressure", the implication being that pressure could be lawful under some circumstances. Was there a code of procedure governing such action and what exactly was meant by illegitimate pressure?

52. The Sudanese authorities acknowledged that children were abducted by ethnic groups who were acting in accordance with age-old traditions. He agreed with other members of the Committee that the State should try to put an end to such invidious customs. At the same time, he was concerned at the number of allegations from a variety of sources to the effect that public officials had been involved in the abductions. The Committee would welcome a detailed response to those allegations.

53. The delegation of the Sudan withdrew.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 11) (continued)
(Draft declaration and programme of action of the World Conference, as amended by the Committee on the Elimination of Racial Discrimination; document without a symbol in English only)

54. The CHAIRMAN invited Committee members to comment on the amendments to the draft declaration and programme of action of the World Conference proposed by the contact group.

55. Mr. ABOUL-NASR proposed that the Committee should suggest to the Conference that it recommend to the States parties to the Convention that they amend the first sentence of article 9, paragraph 2, of the Convention to read:

> "The Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States parties and non-governmental organizations."

The proposed amendment consisted in inserting the words "and non-governmental organizations" at the end of the sentence to reflect the Committee's current practice.

56. Mr. BOSSUYT said he was unable to support the proposal because it placed States parties and NGOs on an equal footing. Moreover, it did not reflect current practice. The State party's report was translated into all the Committee's working languages and widely circulated. The experts were free to examine the report in the light of material they had received from other sources and to base their questions to the State party on their overall assessment. If NGO material was given official status, the Committee would probably be inundated with documents and requests for translation and distribution.

57. Mr. FALL, endorsing Mr. Bossuyt's argument, stressed that it was for the State parties themselves to propose amendments to the Convention under article 23. He urged Mr. Aboul-Nasr to withdraw his proposal.

58. Ms. JANUARY-BARDILL said that the word "examination" in article 9 was applicable only to reports and information received from States parties and could not be applied to NGO material.

59. Mr. DIACONU said he viewed Mr. Aboul-Nasr's proposal as a protest against the Committee's practice of taking NGO material into account in its consideration of reports.

60. Mr. ABOUL-NASR requested a roll-call vote.

61. Mr. de GOUTTES, supported by Mr. YUTZIS, said that such a far-reaching proposal should not be put to the vote until Committee members had explored its implications. He appealed to Mr. Aboul-Nasr to withdraw his request.

62. Mr. ABOUL-NASR agreed. He suggested that the Committee should revert to the matter at a later date.

63. It was so decided.

64. Mr. DIACONU said he did not agree with the proposed addition to paragraph 20 (b) to the effect that the Committee should be encouraged to refine the criteria for early warning and perhaps even develop a set of indicators and benchmarks. The Committee did not require the Conference's permission or approval for the refinement of its early warning criteria. It should focus on obtaining a consensus within the Committee on the development of appropriate indicators and benchmarks.

65. Mr. PILLAI observed that the same point was made at greater length in proposed new paragraph 112, which began with the words: "CERD should be empowered to intensify its focus on early warning and urgent action measures."

66. Mr. ABOUL-NASR said that the Conference was unlikely to adopt wording such as "CERD should be empowered" (para. 112).

67. Mr. BOSSUYT, supported by Mr. YUTZIS, said that, if the idea set forth in paragraph 112 called for an amendment to the Convention, the reservations expressed regarding Mr. Aboul-Nasr's earlier proposals would be applicable. If it did not require an amendment, the Committee had in any case no need to seek counsel from the Conference. The opening words of both the proposed addition to paragraph 20 (b) and proposed new paragraph 112 could perhaps be amended to read "The Conference encourages the Committee".

68. Mr. de GOUTTES said that, whatever decision was taken concerning the wording of the two paragraphs, the references to the early warning and urgent action procedure should not be deleted. The originality of the procedure, which had secured the support of the United Nations General Assembly, should be stressed.

69. Mr. DIACONU said that he opposed the contact group's proposed insertion of paragraph 20 (c) encouraging States parties to consider the use of article 11 of the Convention in cases of serious violations of the Convention that might degenerate into ethnic conflict. Article 11 had never been invoked by States parties because it was an inappropriate procedure for addressing human rights issues. There were alternative channels for settling disputes between States.

70. Mr. RECHETOV warned against giving participants in the Conference the impression that the Committee was taking liberties with the Convention. He proposed ending proposed paragraph 20 (c) with the words "article 11 of the Convention".

71. Mr. DIACONU said he continued to oppose any reference to article 11 of the Convention which, in his view, served no useful purpose.

72. The CHAIRMAN contended that article 11 was part and parcel of the Convention. He supported Mr. Rechetov's proposal.

73. Mr. DIACONU, turning to paragraph 84, proposed inserting a reference to the Committee's General Recommendation XXVII on discrimination against Roma since the paragraph, as it stood, referred only to recommendations by the Organization for Security and Cooperation in Europe and the Council of Europe.

74. It was so decided.

75. The CHAIRMAN suggested that the Committee should continue its discussion on the proposed amendments to the draft declaration and programme of action at an informal meeting.

76. It was so decided.

The meeting rose at 6.15 p.m.